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**REPORTING TO THE DIRECTORATE-GENERAL FOR COMPETITION, CONSUMER
AFFAIRS AND FRAUD CONTROL**

GREENWASHING PRACTICES

LULULEMON ATHLETICA INC. AND LULULEMON ATHELTICA FR SARL

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I. INTRODUCTION

1. Stand and Stand Environmental Society are non-governmental organizations incorporated in the United States and Canada ("**Stand**"). Stand's objectives are to conserve and protect the environment by ensuring its sustainable use, and to encourage governments and businesses to treat people and the environment with respect.
2. Lululemon Athletica FR SARL ("**Lululemon France**") is a company incorporated under French law whose business is the retail sale of technical athletic clothing marketed under the Lululemon Athletica brand. Lululemon France is a subsidiary of the Lululemon Athletica group of companies, whose parent company is Lululemon Athletica Inc. ("**Lululemon Inc.**"), a Canadian company listed on NASDAQ. Lululemon Inc. and Lululemon France are together referred to as "**Lululemon**".
3. For the reasons set out below, Stand considers that Lululemon's environmental claims, and in particular its *Be Planet* marketing campaign, clearly fall within the scope of "greenwashing" and as such (i) constitute misleading commercial practices pursuant to Articles L. 121-1 et seq. of the French Consumer Code and (ii) breach the provisions of Articles L. 541-9-1 and L. 229-68 of the French Environmental Code.
4. These conclusions are based on the in-depth research carried out by Stand, and this notice proposes a presentation to the DGCCRF in order to assist it in its missions to monitor the application of these major texts for the preservation of the environment, and consequently invites it to open an investigation into the environmental claims made by Lululemon.
5. Stand has already filed a complaint with the Canadian Competition Bureau in February 2024, based on the anti-greenwashing provisions of Canadian law, following which an investigation into Lululemon was opened in May 2024.¹ However, the practices in question also concern the French market and consumers and specifically contravene the anti-greenwashing provisions of French law. As a result, and given the importance attached by the public authorities to combating these practices, making France one of the pioneering countries on these issues, Stand considers that it is crucial for the French regulator to take up the practices described below.
6. The following section (Part II) summarises this alert. It is then structured as follows: first, it briefly puts into context the current major issue of greenwashing and the recent measures in France and Europe that have accompanied this growing awareness (Part III) and details the applicable provisions (Part IV). It then presents the results of Stand's research into the environmental impact of Lululemon's activities and those of the textile industry (Part V). Finally, it sets out how Stand considers, on the basis of its research, that Lululemon's environmental claims - detailed examples of which are provided - contravene the applicable provisions prohibiting greenwashing.

¹ Stand press release "Stand.earth requests anti-competition investigation into Lululemon's environmental claims", 12 February 2024, online: <https://stand.earth/press-releases/stand-earth-anti-competition-investigation-into-lululemon-environmental-claim/>; Forbes, "Canada Launches Greenwashing Investigation Into Lululemon", 13 May 2024, online: <https://www.forbes.com/sites/jonmcgowan/2024/05/13/canada-launches-greenwashing-investigation-into-lululemon/>

II. SUMMARY OF THE ALERT

7. **The challenges of greenwashing.** In the context of the urgent need to combat climate change and environmental pollution "[the] environmental argument is not a sales argument like any other: it brings together a company's commitment and a consumer's involvement in favour of sustainable development and cannot be based on ambiguity or approximation. In 2022, consumer expectations regarding the environmental impact of products and services will have a decisive influence on their economic behaviour.²
8. France in particular has been a pioneer in the fight against greenwashing for several years now, with the adoption of the law of 10 February 2020 known as the "Anti-Waste and Circular Economy (AGEC)" law and the law of 22 August 2021 known as the "Climate and Resilience" law, which have strengthened the legal arsenal available to combat these practices whose profoundly harmful effects are widely recognised. Greenwashing delays environmental awareness and sows confusion in the public mind, preventing consumers from making informed choices and genuinely committed companies from differentiating themselves.
9. In its 2023 Activity Report, the DGCCRF emphasised the importance of "penalising players who misuse the ecological argument" and indicated that "the action taken in this area in 2023 will continue in 2024".³ This action is indeed necessary, given the results of the survey it carried out on environmental claims for non-food products and services in 2021, which concluded that, of the 1,100 companies targeted, one in four did not comply with the rules on environmental claims.⁴
10. **Applicable provisions.** Under French law, greenwashing is primarily punishable as a misleading commercial practice under articles L. 121-1 et seq. of the French Consumer Code. In addition to these provisions, articles L. 541-9-1 and L. 229-68 of the Environmental Code prohibit certain overly vague statements and regulate carbon neutrality claims. The Guide Pratique des Allégations Environnementales of the Conseil National de la Consommation (CNC), 2023 edition ("**CNC Guide**") has no regulatory value, but is a very useful reference document setting out guidelines for the use of environmental claims and on which the DGCCRF services can rely, in particular to sanction greenwashing as misleading marketing.⁵
11. **Highly polluting activities.** As explained in Part V of this alert, the textile industry is highly harmful to the environment and Lululemon's activities are far from being an exception. In particular :
 - a. Lululemon is part of a global industry that contributes between 1.8% and 8% of the world's greenhouse gas emissions,⁶ the vast majority of which are generated by its value chains.⁷ Lululemon has a huge supply chain which produces significant greenhouse gas emissions and, since making its *Be Planet* commitments, has more than doubled its scope 3 emissions to 1,691,009 tCO₂e.⁸ These emissions are also expected to continue to rise, with Lululemon's stated aim of doubling its sales between 2021 and 2026.⁹
 - b. Lululemon chooses to transport a higher percentage of its products by air freight than its competitors, a mode of transport that generates far more greenhouse gas emissions than sea freight.¹⁰

² CNC, Guide pratique des allégations environnementales, 2023 edition, *infra*

³ DGCCRF, Bilan d'activité 2023 Perspective 2024, *infra*

⁴ DGCCRF, "Bilan de la première grande enquête de la DGCCRF sur l'écoblanchiment des produits non-alimentaires et des services : un quart d'anomalies et de nombreuses suites", *infra*

⁵ CNC, Guide pratique des allégations environnementales, 2023 edition, *infra*

⁶ McKinsey & Company study, *infra*

⁷ Article by the Apparel Impact Institute, *below*

⁸ Lululemon, 2022 Impact Report, *infra*

⁹ Lululemon, Five-year growth plan, *infra*

¹⁰ PublicEye article, *below*

- c. The products most commonly used by Lululemon in its material mix - polyester and nylon - are produced from fossil fuels and are known to release significant quantities of microplastics into the world's oceans and rivers when washed.
 - d. Lululemon's supply chain operations used more than 29 billion litres of fresh water in 2022.¹¹
 - e. A significant (but unknown to Stand) quantity of Lululemon clothing and packaging ends up in landfill every year.
12. **A clear misunderstanding of the applicable provisions.** The contradiction between the message of Lululemon's *Be Planet* marketing campaign and the actual environmental impact of Lululemon's actions and products is glaring. Part VI details how various examples of environmental claims made by Lululemon fail to comply with the applicable provisions. In particular :
- a. **Claims that are vague, disproportionate, ambiguous and omit substantial information:** Lululemon makes numerous claims whose general message is that its practices, products and actions avoid damaging the environment, contribute to "restoring" it and to a "healthy planet". These claims constitute misleading commercial practices within the meaning of articles L. 121-2 and 121-3 of the Consumer Code and also use terms that are expressly prohibited under articles L. 121-2 of the Consumer Code and L. 541-9-1 of the Environmental Code because they are excessively vague.
 - b. **Environmental claims relating to aspects that are insignificant in relation to the impacts generated by Lululemon:** its marketing greatly overestimates the importance of certain environmental initiatives that bring only minor improvements or benefits in relation to the company's overall climate and environmental impact. These claims therefore also constitute misleading commercial practices within the meaning of articles L. 121-2 and 121-3 of the French Consumer Code.
 - c. **Environmental claims relating to Lululemon's greenhouse gas emissions:** the way in which Lululemon presents its plans to reduce greenhouse gas emissions (i) is vague, disproportionate, ambiguous and omits substantial information, or is even false, and therefore constitutes misleading commercial practices within the meaning of Articles L. 121-2 and 121-3 of the French Consumer Code; and (ii) may also be assimilated to carbon neutrality claims and therefore contravene the provisions of article L. 229-68 of the French Environmental Code, which governs such claims.
13. On the basis of these elements, Stand therefore respectfully invites the DGCCRF to open an investigation into Lululemon's environmental claims.

III. THE FIGHT AGAINST GREENWASHING: A MAJOR CHALLENGE

A. Ecological crisis, environmental awareness and consumer choice

14. The world is facing serious environmental problems linked to climate change, loss of biodiversity, pollution and waste. The United Nations describes the situation as follows:
- "Today, the Earth is in the grip of a triple planetary crisis. Climate change. Loss of nature and biodiversity. Pollution and waste. This triple crisis threatens the well-being and survival of millions of people around the world."¹²

¹¹ Lululemon, 2022 Impact Report, infra

¹² United Nations "Climate, biodiversity, pollution: Secretary-General calls on leaders to show ambition and determination to tackle triple global emergency", video message from UN Secretary-General António Guterres on the occasion of International Earth Day (21 April 2022), online: <https://press.un.org/fr/2022/sqsm21243.doc.htm>

15. The most recent report by the United Nations Intergovernmental Panel on Climate Change (IPCC) concludes that:

"Human-induced climate change is already affecting many extreme weather and climate events in all regions of the world. The result is widespread adverse impacts on food security and access to water, human health, the economy and society, as well as associated losses and damage to nature and people (high confidence)."¹³
16. In the Green Pact for Europe, the European Commission stresses that:

"Year after year, the atmosphere heats up and the climate changes. Of the eight million species on our planet, one million are at risk of extinction. Forests and oceans are being polluted and destroyed."¹⁴
17. At COP28 in 2023, the Secretary General of the United Nations, António Guterres, reiterated the urgency of responding to this crisis:

"We are in a race against time... our planet is just a few minutes away from midnight of the 1.5 degree limit. And the clock is still ticking."¹⁵
18. The Organisation for Economic Co-operation and **Development** ("**OECD**") points out that the world produces twice as much plastic as it did twenty years ago, with most of it ending up in landfill, being incinerated or escaping into the environment, and only 9% being successfully recycled.¹⁶ It is estimated that 11% of the world's plastic waste comes from clothing and textiles.¹⁷ A 2023 European Parliament report estimates that per capita consumption of textiles in the European Union requires an average of 400 m² of land, 9 m³ of water and 391 kg of raw materials.¹⁸
19. It is estimated that textile production is responsible for around 20% of global water pollution from dyeing and finishing products.¹⁹ The washing of synthetic clothes accounts for 35% of the primary microplastics released into the environment.²⁰ A single wash of polyester clothes can release 700,000 microplastic fibres, which can end up in the food chain.²¹
20. The World Health Organisation (WHO) considers air pollution to be one of the greatest environmental risks to health. The main source of pollution, the burning of fossil fuels, is also responsible for greenhouse gas emissions that contribute to climate change.
21. The Ministry of the Economy recognises that "it is crucial to tackle the causes of climate change" and that "everyone is concerned: elected representatives, economic players, citizens, to reduce our greenhouse gas emissions, but also to adapt to the changes already underway".
22. In light of this, many people's environmental concerns have led them to buy their clothes in a sustainable way, to buy products that respect the planet and to avoid brands that sell products

¹³ Synthesis Report of the IPCC Sixth Assessment Cycle (AR6) including contributions from Working Groups I, II, and III (lead writing team: H. Lee and J. Romero) (2023), online:

https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf

¹⁴ European Commission "The Green Pact for Europe" (11 December 2019), online: eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52019DC0640&from=EN

¹⁵ United Nations Secretary-General, "Opening remarks by the Secretary-General at the COP28 press briefing" (11 December 2023), online: <https://www.un.org/sg/en/content/sg/speeches/2023-12-11/secretary-generals-opening-remarks-press-encounter-cop28>

¹⁶ OECD, "Plastic pollution continues to grow while waste management and recycling lag behind" (22 February 2022), online: <https://www.oecd.org/fr/about/news/press-releases/2022/02/plastic-pollution-is-growing-relentlessly-as-waste-management-and-recycling-fall-short.html>

¹⁷ Ibid.

¹⁸ European Parliament, "Textile production and waste: the impact on the environment" (infographics) (last updated on 12 April 2024) online:

<https://www.europarl.europa.eu/topics/fr/article/20201208STO93327/production-et-dechets-textiles-les-impacts-sur-l-environnement-infographies>

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

that contribute to climate change or the degradation of the planet. In other words, these issues are at the heart of the concerns of many consumers in France and around the world. The Carbon Disclosure Project's 2023 report from Lululemon Inc. underlines this:

"Consumers, particularly generations Y and Z, are more inclined to adopt brands that they can trust, that express their values and that are good for people and the planet."

23. As the CNC Guide points out, "The environmental argument is not a sales argument like any other: it brings together a company's commitment and a consumer's involvement in favour of sustainable development and cannot be based on ambiguity or approximation. In 2022, consumer expectations regarding the environmental impact of products and services will have a decisive influence on their economic behaviour".²²
24. To avoid misleading consumers, it is vital that companies' statements about their contribution to the climate crisis and environmental pollution are not only truthful, but also clear and transparent.

B. An expanding anti-greenwashing legal arsenal and an active regulator

25. Faced with these challenges, France is a pioneer, having adopted legislation aimed at improving the information provided to consumers about the environmental impact of products and services in general, and at combating greenwashing - corporate communications that misuse the ecological argument²³ - in particular.
26. The profoundly harmful effects of this practice are widely acknowledged. The French Environment and Energy Management Agency ("**ADEME**") sums up: "The abusive use of the ecological argument poses several problems: greenwashing delays awareness and confuses the public about the reality of the efforts to be made; [and] it prevents companies that are genuinely committed and communicate fairly from differentiating themselves". Combating greenwashing means enabling consumers to make informed choices, but also "protecting [the most virtuous companies] from a distortion of competition based on unfounded claims".²⁴
27. The two key texts adopted in recent years demonstrate the importance attached to combating these practices:
 - a. The law of 10 February 2020, known as the "Anti-Waste and Circular Economy Act" (**AGEC**), strengthened environmental information for consumers and provided a stricter framework, or even prohibited, the use of certain environmental claims, at the same time as creating new tools to support consumers in their new consumption practices (consumer information on the environmental qualities and characteristics of waste-generating products, reparability index and soon sustainability index, information on endocrine disruptors, simplification of the sorting process, development of deposits and bulk packaging, ban on claims considered to be all-encompassing).
 - b. The law of 22 August 2021, known as the "Climate and Resilience" law, has perpetuated and deepened the legislator's guidelines by adopting new measures enabling consumers to make informed choices (for example, the creation of a product sustainability index to replace the reparability index). In addition, one of the emblematic measures of this law is the ban on "greenwashing" as a fully-fledged misleading commercial practice, with reinforced penalties.
28. In its 2023 report, the DGCCRF also reiterated the importance of "penalising players who misuse the ecological argument" and that "the action taken in this direction in 2023 will continue in

²² CNC, Guide pratique des allégations environnementales, 2023 edition: https://www.economie.gouv.fr/files/files/directions_services/dgccrf/documentation/publications/publications_exter nes/bro-guide-cnc-VF.pdf?v=1685000021 p. 3

²³ CNC, Practical Guide, supra, p. 12

²⁴ CNC, Practical Guide, supra, p. 4

2024".²⁵ As a sign of the need to monitor and enforce these texts, the DGCCRF, in its survey of environmental claims on non-food products and services carried out in 2021, concluded that, of the 1,100 companies targeted, one in four did not comply with the rules on environmental claims.²⁶ In a study carried out in 2020, the European Commission found that 53.3% of the 150 environmental claims examined were vague or misleading.²⁷

29. Finally, the fight against greenwashing is also a resolutely European issue, with the recent European Directive against greenwashing,²⁸ which Member States have until 27 March 2026 to transpose into national law and must apply the measures adopted from 27 September 2026. Its aim is to give consumers the means to act in favour of the green transition through better protection against unfair practices and better information. In particular, it strengthens the rules on this type of claim, requiring companies to provide solid evidence to back up their environmental and ecological claims.

IV. THE APPLICABLE PROVISIONS

30. Under French law, greenwashing is primarily punishable as a misleading commercial practice under articles L. 121-1 et seq. of the French Consumer Code. In addition to these provisions, articles L. 541-9-1 and L. 229-68 of the French Environment Code prohibit certain overly vague statements and regulate carbon neutrality claims.
31. The CNC's Practical Guide to Environmental Claims, 2023 edition ("**CNC Guide**") has no regulatory value, but it is a reference document setting out guidelines for the use of environmental claims. The CNC Guide states in its introduction that "Although there are no penalties for non-compliance with this guide, **the DGCCRF services may, in any event, as part of their control mission, rely on its content** to identify and penalise breaches or infringements of the legal provisions in force, particularly with regard to misleading commercial practices".²⁹
32. Finally, ADEME has also published an Anti-Greenwashing Guide ("**ADEME Guide**")³⁰ to help companies, who can also refer to the ARPP Recommendations³¹ and the ICC Code.³²

A. Articles L. 121-1 et seq. of the French Consumer Code on unfair and deceptive commercial practices

²⁵ DGCCRF, Bilan d'activité 2023 Perspective 2024, online: https://www.economie.gouv.fr/files/files/directions_services/dgccrf/dgccrf/rapports_activite/2023/bilan_activite%20A9-DGCCRF_2023.pdf?v=1716302325

²⁶ DGCCRF, "Bilan de la première grande enquête de la DGCCRF sur l'écoblanchiment des produits non-alimentaires et des services": un quart d'anomalies et de nombreuses suites, online: <https://www.economie.gouv.fr/dgccrf/bilan-de-la-premiere-grande-enquete-de-la-dgccrf-sur-lecoblanchiment-des-produits-non-1>

²⁷ European Commission, Environmental claims in the EU - Inventory and reliability assessment: final report (2020), online: <https://op.europa.eu/fr/publication-detail/-/publication/f7c4cb8b-f877-11ee-a251-01aa75ed71a1>

²⁸ Directive (EU) 2024/815 of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU to empower consumers to act in favour of the green transition through better protection against unfair practices and better information amending Directives 2005/29/EC and 2011/83/EU to empower consumers to act in favour of the green transition through better protection against unfair practices and better information, online: https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=OJ:L_202400825

²⁹ CNC, Practical Guide, supra, p. 4

³⁰ ADEME, Anti-Greenwashing Guide, July 2023, online: https://communication-responsable.ademe.fr/sites/default/files/2023-10/20230727_ademe_guide_antigreenwashing_web-vdef-min.pdf

³¹ Autorité de Régulation Professionnelle de la Publicité (ARPP), ARPP Recommendations, online: <https://www.arpp.org/nous-consulter/regles/regles-de-deontologie/#:~:text=Les%20Recommandations%20de%20'ARPP,d%C3%A9ontologie%20de%20'expression%20publicitaire>

³² International Chamber of Commerce, ICC Advertising and Marketing Communication Code, 2018 edition, online: <https://iccwbo.org/wp-content/uploads/sites/3/2018/09/icc-advertising-and-marketing-communications-code-int.pdf>

33. Articles L. 121-1 et seq. of the French Consumer Code, which transpose Directive 2005/29/EC of 11 May 2005³³ into French law, prohibit misleading commercial practices.

34. **Principles.** A commercial practice is said to be misleading when it is based on claims, indications or presentations that are false or likely to mislead and relate to a certain number of elements listed in article L. 121-2 of the Consumer Code, including the essential characteristics of the good or service or the scope of the advertiser's commitments:

Article L. 121-2

A commercial practice is misleading if it is committed in any of the following circumstances:

(...)

*2° If it is based on **false or misleading allegations, indications or presentations** concerning one or more of the following elements:*

(...)

*b) The essential characteristics of the good or service, namely : its substantial qualities, its composition, its accessories, its origin, in particular with regard to the rules justifying the use of the terms "fabriqué en France" or "origine France" or any equivalent term, sign or symbol within the meaning of the Union Customs Code on the non-preferential origin of products, its quantity, method and date of manufacture, the conditions of its use and its fitness for use, **its properties and the results expected from its use, in particular its environmental impact, as well as the results and main characteristics of the tests and checks carried out on the good or service ;***

(...)

*e) The **extent of the advertiser's commitments, particularly with regard to the environment, and the nature, process or reason for the sale or provision of services***

35. Article L. 121-3 of the French Consumer Code also states that a commercial practice is also misleading if, taking into account the limitations of the means of communication used and the surrounding circumstances, it omits, conceals or provides unintelligible, ambiguous or untimely material information.

36. It follows from these provisions that all environmental claims must be explicit and precise so as not to mislead consumers or sow doubt in their minds. The information provided must therefore be clear, proportionate, unambiguous and justified by precise and measurable elements. It must aim to inform consumers fairly about the environmental characteristics of the product or service and must be based on scientific evidence or recognised methods.³⁴

37. It should be noted that a visual related to ecology or sustainable development but disconnected from the product or approach in question will also be considered as misleading the consumer. According to the ADEME Guide, this is one of the three most widespread forms of greenwashing.³⁵

38. **Claims to be avoided.** It follows from the guidelines³⁶ of Directive 2005/29/EC²² that environmental or ecological claims must be presented in a clear, specific, accurate and

³³ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ("**Unfair Commercial Practices Directive**"), online: <https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:32005L0029>

³⁴ CNC, Practical Guide, supra, p. 23

³⁵ ADEME, Guide anti-greenwashing, supra p. 8

³⁶ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC,

unambiguous manner, and that any generic claim that is not based on accessible and understandable evidence is therefore prohibited. In this respect, the CNC Guide indicates that the terms "respectful of the environment", "green", "nature-friendly", "ecological", "ecologically correct", "climate-friendly" or "preserves the environment" should be avoided.³⁷

39. **Complete representation.** The environmental claim must also relate to a significant environmental aspect with regard to the impacts generated by the product, its packaging, or the product-packaging combination.³⁸ The assessment of an environmental claim takes into account the most significant environmental impacts generated by the product during its life cycle, including its supply chain. Highly polluting industries must therefore ensure that their environmental claims are precise in this sense, by being formulated in a relative manner.³⁹
40. An environmental claim highlighting only one of the significant impacts generated by the product on the environment, among several others, may therefore be considered misleading. Professionals must also refrain from distorting claims relating to the composition of the product (including raw materials), its use, its manufacturing process, its transport or its end-of-life impact, in particular by unduly stressing the importance of its positive aspects when these are in fact only marginal, or that the overall environmental impact of the product throughout its life cycle is negative.⁴⁰
41. Finally, the benefit claimed by the environmental claim must not lead to pollution displacement, i.e. it must not create or worsen other environmental impacts of the product at any stage of its life cycle.⁴¹
42. **Penalties.** Article L. 132-2 of the French Consumer Code punishes the use of misleading commercial practices with 2 years' imprisonment and a fine of 300,000 euros, which may be increased, in proportion to the benefits derived from the offence, to 10% of average annual sales (calculated on the basis of the last three annual sales known on the date of the offence), or 50% of the expenditure incurred in carrying out the advertising or practice constituting the offence - this rate being increased to 80% in the case of the misleading commercial practices referred to in b) (essential characteristics of the goods or services) and e) (scope of the commitments in particular) of 2° of article L. 121-2, when they are based on environmental claims.

B. Article L. 541-9-1 of the French Environment Code prohibits the use of the terms "biodegradable", "environmentally friendly" or any other equivalent wording on a product or packaging.

43. **Principle.** In a similar spirit to the prohibition of certain excessively vague terms under the provisions on misleading commercial practices (see paragraph 38 above), article L. 541-9-1 of the Environment Code, enacted by article 13 of the EC Anti-Waste Act, adds: "It is forbidden to use the terms "biodegradable", "environmentally friendly" or any other equivalent term on a product or packaging". In this way, the legislator has sought to prevent the terms used on products or packaging from misleading consumers by using terms that are too vague, leading to confusion, particularly when it comes to sorting or disposing of the product concerned.⁴²
44. The CNC Guide lists several examples of all-encompassing claims that may be considered equivalent to "environmentally friendly": "eco-responsible"; "bio-responsible"; "biocompatible"; "nature-friendly"; "planet-friendly"; "environment-friendly"; "good for the environment"; "good for

Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ("Unfair Commercial Practices Directive"), online: <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=celex%3A32005L0029>

³⁷ ADEME, Guide anti-greenwashing, supra, p. 25

³⁸ Ibid. p. 12

³⁹ Ibid. p. 24 - citing: Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market: [https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX:52021XC1229\(05\)](https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX:52021XC1229(05))

⁴⁰ Ibid. p. 24

⁴¹ Ibid. p. 24

⁴² Ibid. p. 25

the climate"; "good for the planet"; "ecological"; "eco-friendly"; "green"; or "nature-friendly".⁴³ It adds that this list is not exhaustive and that other all-encompassing claims may be considered equivalent, such as "better for the environment" or "better for the planet" when they are not used for comparison purposes.⁴⁴

45. **Penalties.** Pursuant to article L. 541-9-4-1, "Any breach of the information obligations mentioned in article L. 541-9-1 is punishable by an administrative fine of up to €3,000 for a natural person and up to €15,000 for a legal entity.

C. Article L. 229-68 of the French Environment Code governing claims of carbon neutrality in advertising

46. **Principle.** Article L. 229-68 of the French Environment Code prohibits claims in advertising that a product (good or service) is carbon neutral, or the use of any wording of equivalent meaning or scope, unless the advertiser makes readily available to the public a certain amount of information attesting to the implementation of a virtuous approach aimed primarily at reducing GHG emissions, and ultimately offsetting them, in compliance with high environmental quality standards.

Article L. 229-68 of the Environment Code

" I. - It is forbidden to state in an advertisement that a product or service is carbon neutral or to use any wording of equivalent meaning or scope, unless the advertiser makes the following elements readily available to the public:

1° A greenhouse gas emissions balance sheet incorporating the direct and indirect emissions of the product or service;

2° The process by which the greenhouse gas emissions of the product or service are first avoided, then reduced and finally offset. The greenhouse gas emission reduction trajectory is described using quantified annual progress targets;

3° Terms and conditions for offsetting residual greenhouse gas emissions that comply with minimum standards defined by decree.

47. **Penalties.** In the event of non-compliance with these provisions, the DGCCRF may, in accordance with article L. 229-69 of the Environment Code, impose a fine of €20,000 for an individual and €100,000 for a legal entity. These amounts may be increased up to the full amount of the expenditure devoted to the illegal operation.

D. The CNC's Practical Guide to Environmental Claims and other guides for companies

1. The CNC's Practical Guide to Environmental Claims

48. The CNC Guide, in addition to clarifying the general application of the aforementioned provisions to environmental claims, (i) addresses the notion of claims concerning a company as a whole and (ii) provides examples of specific claims and sets out the conditions under which they may constitute greenwashing.

The specific case of allegations concerning a company

49. The CNC Guide specifies that environmental claims are also regulated when they relate to the company itself - i.e. its efforts to reduce its environmental impact through its commercial policy, its production methods or its commitment to various actions - rather than to the products and/or their packaging:

"The claim must specify whether it concerns all of the company's activities, the production process or one of the product development stages. The company must justify that it has reduced the main environmental impacts associated with its activities.

⁴³ Ibid. p. 26

⁴⁴ Ibid. p. 26

Explanations of the company's approach must be easily accessible to consumers. **When reading the claim, the consumer must understand the company's exact approach.**

In all cases, these claims must be qualified: "our company limits its significant impact on the environment".

The company must justify its actions and make them easily accessible (e.g. on a website) by providing concrete, measurable, relevant, significant and verifiable evidence (e.g. in terms of eco-design, limiting the use of polluting substances and greenhouse gas emissions, controlled management of natural resources, energy and waste, etc.) proving that the main environmental impacts associated with the company have been significantly reduced".⁴⁵

Specific examples

50. The CNC Guide then devotes entire sections to a number of common claims such as "sustainable" or "use of renewable resources", and details the circumstances in which their use constitutes greenwashing.

51. These sections are referred to at greater length where relevant in part V of this notice.

2. Other guides for companies: ADEME's Anti-Greenwashing Guide⁴⁶ , ARPP's Recommendations⁴⁷ and the ICC Code.⁴⁸

52. Alongside the CNC Guide, ADEME has also published an Anti-Greenwashing Guide designed to help companies comply with the rules in force. In particular, the ADEME Guide contains several self-assessment questionnaires and identifies the "most common bad habits that turn the use of the ecological argument and the "sustainable development" argument into abuse", including :

- c. A disproportionate promise;
- d. Vague words;
- e. Insufficient information;
- f. An irrelevant focus; and
- g. Non-existent evidence.⁴⁹

53. Finally, companies can also refer to the ARPP Recommendations⁵⁰ and the ICC Code.⁵¹

V. RELEVANT FACTS: ENVIRONMENTAL POLLUTION AND GREENHOUSE GAS EMISSIONS GENERATED BY LULULEMON AND THE TEXTILE INDUSTRY

A. Greenhouse gas emissions

1. The textile industry

54. It is estimated that the clothing industry contributes between 1.8% and 8% of global greenhouse gas emissions.⁵²

⁴⁵ CNC, Practical Guide, supra, p. 65-66

⁴⁶ ADEME, Anti-Greenwashing Guide, supra

⁴⁷ ARPP, ARPP Recommendations, supra

⁴⁸ International Chamber of Commerce, Code on Advertising and Commercial Communications, supra.

⁴⁹ ADEME, Guide Anti-Greenwashing, supra, p. 9-10

⁵⁰ ARPP, ARPP Recommendations, supra

⁵¹ International Chamber of Commerce, Code on Advertising and Commercial Communications, supra.

⁵² Apparel Impact Institute, "Taking Stock of Progress Against the Roadmap to Net Zero" (June 2023), online: https://apparelimpact.org/wp-content/uploads/2023/06/Aii_RoadmapReport-752.pdf; McKinsey & Company study

55. The vast majority of the clothing industry's emissions are generated by its value chains.⁵³ The Greenhouse Gas Protocol (GHG Protocol),⁵⁴ a global standard framework for measuring and managing emissions from private and public activities, classifies these value chain emissions as "Scope 3 emissions".⁵⁵ Scope 3 emissions are all indirect greenhouse gas emissions (excluding purchased energy production) that occur in a company's value chain, including upstream and downstream emissions. In the clothing industry, upstream emissions include emissions from a clothing company's supply chain, such as the production of raw materials, transport and distribution. Downstream emissions include those associated with the use and disposal of clothing products.⁵⁶
56. Based on a study of clothing and footwear brands, the Apparel Impact Institute and the World Resources Institute have calculated that 96% of the sector's total greenhouse gas emissions are Scope 3 emissions, 80% of which come from upstream manufacturing, production and raw materials.⁵⁷ To stay within the 1.5°C target, the Apparel Impact Institute predicts that the industry must reduce its emissions by at least 45% by 2030.⁵⁸ In other words, to be part of the global solution to climate change, apparel companies must significantly reduce their absolute emissions, including emissions from their supply chains.

2. Lululemon

57. The vast majority of Lululemon's greenhouse gas emissions are scope 3 emissions created by its supply chain.⁵⁹ Since Lululemon launched its *Be Planet* marketing campaign in 2020, instead of seeing a reduction in Lululemon's greenhouse gas emissions, these emissions have increased significantly. Lululemon's own reports indicate that its scope 3 emissions have more than doubled since 2020, as follows:⁶⁰
- 2020: 829.456 tCO₂e⁶¹

entitled "Fashion on climate: How the fashion industry can urgently act to reduce its greenhouse gas emissions" (2020), online:

<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), online: https://quantis.com/wp-content/uploads/2019/11/measuringfashion_globalimpactstudy_quantis_2018.pdf.

⁵³ World Resource Institute, "Roadmap to Net Zero: Delivering Science Based Targets in the Apparel Sector" (November 2021), p. 7, online: <https://files.wri.org/d8/s3fs-public/2021-11/roadmap-net-zero-delivering-science-based-targets-apparel-sector.pdf?VersionId=LxrwUSv9dHytM7zybuQgoJ8LUHBZVgM1>

⁵⁴ GHG Protocol, online: <https://ghgprotocol.org/standards-guidance>

⁵⁵ GHG Protocol, Greenhouse Gas Protocol "FAQ" online:

https://ghgprotocol.org/sites/default/files/standards_supporting/FAQ.pdf. The GHG Protocol Corporate Standard classifies a company's greenhouse gas emissions into three types. Scope 1 emissions are direct emissions from owned or controlled sources. Scope 2 emissions are indirect emissions from the production of purchased energy. Scope 3 emissions are all indirect emissions (not included in Scope 2) that occur in the reporting company's value chain, including upstream and downstream emissions.

⁵⁶ World Resources Institute and Science Based Targets initiative, "Apparel and Footwear Sector: Science-Based Targets Guidance" at points 4 and 25, figure 8, online:

https://sciencebasedtargets.org/resources/files/SBT_App_Guide_final_0718.pdf

⁵⁷ Apparel Impact Institute and World Resources Institute, supra

⁵⁸ Apparel Impact Institute, supra

⁵⁹ Based on the information contained in Lululemon's 2022 Impact Report, it has been calculated that Lululemon's Scope 3 emissions represent 99.7% of its total emissions: Lululemon, 2022 Impact Report, online: <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/reporting-and-disclosure/2022-lululemon-impact-report.pdf>

⁶⁰ Lululemon's report omits certain categories of Scope 3 emissions and these values therefore do not represent all of the company's emissions: *Ibid*, p. 79.

⁶¹ Lululemon, 2020 Impact Report, online: <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/our-impact-agenda/2020-full-impact-report.pdf>. The figures disclosed for greenhouse gas emissions in Lululemon's impact reports appear to include those of its subsidiaries, including Lululemon France. The impact reports state that they "cover global business activity performance from our direct operations (including offices, retail outlets, e-commerce, guest training centres and distribution centres) and supply chain (including manufacturing suppliers and distribution logistics)."

- 2021: 1,343,649 tCO₂e⁶²
 - 2022: 1,691.009 tCO₂e⁶³
58. The greenhouse gas emissions reported for Lululemon France are relatively low, including scope 3 emissions and are included in the overall emissions for Europe (excluding UK and Ireland) as described in the 2022 impact report. However, this does not reflect the extent of Lululemon's scope 3 emissions in its global supply chain to which Lululemon France has access.⁶⁴
 59. Lululemon's emissions in 2022 are equivalent to burning more than 720 million litres of petrol, more than 3.8 million barrels of oil or powering more than 518,000 passenger vehicles for one year.⁶⁵
 60. It appears that these emissions will continue to increase significantly as Lululemon has a stated goal of doubling its 2021 sales by 2026,⁶⁶ which will mean an increase in garment manufacturing through its supply chain and a corresponding increase in scope 3 emissions.
 61. In addition, more than 80% of Lululemon's manufacturers and suppliers are located in countries that are highly dependent on fossil fuels and have minimal renewable energy networks, including Vietnam, Cambodia, Sri Lanka, Bangladesh and Indonesia.⁶⁷ Vietnam, for example, where Lululemon sources 39% of its products,⁶⁸ is the fastest-growing coal-consuming country in Southeast Asia, with an annual growth rate of 11%.⁶⁹ By 2021, coal will account for 47% of the country's electricity generation mix⁷⁰ and Vietnam's CO₂ emissions will have risen by more than 50% between 2017 and 2020 (and more than 540% between 2000 and 2021).⁷¹
 62. In addition, although Lululemon claims to be committed to working with its suppliers to increase the use of renewable energy and eliminate coal-fired boilers on site,⁷² these claims are not easily verifiable. Many of Lululemon's key suppliers do not publish information about their coal use or plans to switch to renewable energy. For example, Tan De Co Ltd, which Stand has identified as one of Lululemon's largest suppliers, does not publicly state that it uses renewable energy to power its factories, has not set public targets to reduce its emissions and has not published a plan to phase out the use of coal. If the DGCCRF decides to open an investigation into the practices of Lululemon described in this alert, it would certainly be useful to obtain from Lululemon the past and present environmental reports of its suppliers, including information on their reliance on coal and plans to switch to renewable energy.

⁶² Lululemon, 2021 Impact Report, online: <https://corporate.lululemon.com/~media/Files/L/Lululemon/our-impact/reporting-and-disclosure/2022-lululemon-impact-report.pdf>

⁶³ Lululemon, 2020 Impact Report, supra, p. 79.

⁶⁴ Lululemon, Impact Report 2022, supra, p. 75

⁶⁵ Natural Resources Canada, Greenhouse Gas Equivalency Calculator, online: <https://oee.nrcan.gc.ca/corporate/statistics/neud/dpa/calculator/ghg-calculator.cfm#results>

⁶⁶ 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%20quest%20experience%2C%20and%20market%20expansion> .

⁶⁷ Lululemon, Impact Report 2022, supra. In 2022, around 39% of their products were manufactured in Vietnam, 14% in Cambodia, 12% in Sri Lanka, 8% in Bangladesh and 7% in Indonesia, with the remainder manufactured in other regions.

⁶⁸ Ibid.

⁶⁹ Thang Nam Do and Paul J. Burke, "Phasing out coal power in a developing country context: Insights from Vietnam": Insights from Vietnam" (2023) Energy Policy, online: <https://www.sciencedirect.com/science/article/pii/S0301421523000976?via%3Dihub>

⁷⁰ Ibid.

⁷¹ International Energy Agency (IEA), Calculateur de l'émission totale de CO₂ due aux sources d'énergie pour le Viêt Nam, online: <https://www.iea.org/countries/viet-nam/emissions>

⁷² 2022 Impact Report, supra

63. It is also important to note that many of Lululemon's products are made from polyester and nylon, which are produced from fossil fuels.⁷³
64. The negative impact of Lululemon's products and actions on the environment is further compounded by the company's use of air and sea freight to transport its products. Air freight in particular generates around 47 times more CO₂ emissions than sea freight in tonne-miles.^{74,75} Consequently, a company such as Lululemon, which presents itself as taking steps to contribute to the health of the planet, should reasonably minimise its use of air freight. However, faced with the supply chain difficulties caused by the COVID-19 pandemic, Lululemon made the opposite choice by significantly increasing its use of air freight, disregarding the increased negative impact on the environment. Lululemon explains the switch to air freight in its 2022 impact report:
- "In early 2022, the COVID-19 pandemic contributed to supply chain disruption. As a result, we experienced longer lead times and delivery challenges, including pressure on sea freight and seaports. This resulted in a continued reliance on increased air freight in the first half of 2022, impacting our scope 3 emissions target performance."⁷⁶
65. A study assessing the use of air freight by leading apparel companies also highlighted Lululemon's significantly more aggressive use of air freight compared to other companies in the sector. According to the study, Lululemon transports around 30% of its products manufactured in Vietnam and Sri Lanka by air freight, while competitors such as Nike, Adidas and Puma transport less than 5% of their products from Vietnam by air freight.⁷⁷

B. Pollution and the use of resources

1. The textile industry

66. The pollution and waste created by the clothing industry is well documented.
67. Between 80 and 100 billion new garments are produced every year worldwide,⁷⁸ an increasing proportion of which are made from synthetic fabrics such as nylon, acrylic and polyester - materials made from plastic.⁷⁹ When these materials are washed, they release plastic fibres into the water, which end up in our rivers and oceans.⁸⁰ Researchers estimate that every year, clothing releases 500,000 tonnes of microplastics into the ocean - the equivalent of more than 50 billion plastic bottles.⁸¹ Microplastic pollution is one of the most widespread environmental

⁷³ Gelfand Center, Carnegie Melon University, "Natural vs. Synthetic Polymers", online:

<https://www.cmu.edu/gelfand/lgc-educational-media/polymers/natural-synthetic-polymers/index.html>

⁷⁴ 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.>

⁷⁵ According to the OECD, in addition to CO₂ emissions at high altitudes, "*in the upper troposphere (up to 10 kilometres), where most aircraft kilometres are recorded, NO_x emissions can 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_x emissions, their direct release into the upper troposphere can significantly increase their impact on ozone formation*". OECD, "The Environmental Effects of Freight" (1997), p. 19, online (pdf): <https://www.oecd.org/environment/envtrade/2386636.pdf>.

⁷⁶ Lululemon, 2022 Impact Report, supra

⁷⁷ PublicEye, "In the wake of Zara: how many other brands are flying?" (18 December 2023), online:

<https://www.publiceye.ch/fr/news/detail/dans-le-sillage-de-zara-combien-dautres-marques-prennent-lavion>

⁷⁸ TheRoundup.org, "17 Most Worrying Textile Waste Statistics & Facts" (last updated: 18 March 2024), online: <https://theroundup.org/textile-waste-statistics>

⁷⁹ Aravin Prince Periyasamy, Ali Tehrani-Bagha, "A review on microplastic emission from textile materials and its reduction techniques" (2022), *Polymer Degradation and Stability*, Volume 199, online:

<https://www.sciencedirect.com/science/article/pii/S0141391022000878>.

⁸⁰ Concordia Precious Plastic Project, "Microplastic Pollution and the Fast Fashion Industry", online:

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

⁸¹ Ibid.

problems, raising concerns about its impact on water quality, its effects on ecosystems and on human health.⁸²

68. The massive use of synthetic materials in the textile industry makes many garments impossible to recycle.⁸³ It is estimated that 92 million tonnes of textile waste are produced worldwide every year, and that clothing and textiles account for at least 7% of the total amount of waste in landfill sites worldwide.⁸⁴ Synthetic fibres are not biodegradable and can remain in landfill sites for up to 200 years.⁸⁵
69. The textile industry was the third largest source of water degradation and land use in 2020. That year, it took an average of 9 m³ of water, 400 m² of land and 391 kg of raw materials to make clothes and shoes for every EU citizen.⁸⁶
70. Water scarcity is also a growing global problem, with an estimated 2.3 billion people living in water-stressed countries in 2018.⁸⁷ The clothing industry exacerbates this problem by using large quantities of fresh water throughout the production and manufacturing process.⁸⁸
71. The maritime transport used by industry also causes significant damage to the environment. According to the OECD:

"Maritime transport poses a threat to the environment, both on inland waterways and on the oceans. These problems stem from six main sources routine discharges of oily bilge and ballast water from shipping; the discharge of non-biodegradable solid waste into the ocean; accidental spills of oil, toxic products or other cargoes or fuels in ports and en route; air emissions from the power supply of ships; the construction and management of ports and inland waterways; and ecological damage due to the introduction of exotic species carried on board ships".⁸⁹

2. Lululemon

72. According to Stand's research, Lululemon's actions and products also harm the environment in the ways described above.
73. According to information available to Stand, Lululemon uses a lot of synthetic fabrics in its products, with polyester and nylon accounting for over 60% of the materials used by the company.⁹⁰ Therefore, as explained above, when Lululemon's polyester and nylon products are washed by consumers, significant quantities of microplastics are released. Although Lululemon claims that it uses recycled polyester and nylon in its products,⁹¹ experts do not consider these products to be a truly sustainable alternative, as they consume a lot of energy to manufacture, are not biodegradable and still release microplastics.⁹² Worse still, a study carried out in 2021

⁸² OECD, "Policies to Reduce Microplastics Pollution in Water: Focus on Textiles and Tyres" OECD Publishing, (2021), online: https://www.oecd-ilibrary.org/environment/policies-to-reduce-microplastics-pollution-in-water_7ec7e5ef-en

⁸³ Concordia Precious Plastic Project, "Microplastic Pollution and the Fast Fashion Industry", supra.

⁸⁴ TheRoundup.org, "17 Most Worrying Textile Waste Statistics & Facts", supra

⁸⁵ Concordia Precious Plastic Project, "Microplastic Pollution and the Fast Fashion Industry", supra.

⁸⁶ European Parliament, "Textile production and waste: impacts on the environment" (infographics), supra.

⁸⁷ United Nations Statistics Division, SDG 6 "Clean Water and Sanitation: Ensure availability and sustainable management of water and sanitation for all": 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%20%20per%20cent.>

⁸⁸ Lululemon, 2022 Impact Report, supra

⁸⁹ OECD, Impact environnemental du fret supra

⁹⁰ Lululemon, 2022 Impact Report, supra

⁹¹ Ibid.

⁹² 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: https://eco-age.com/wp-content/uploads/2022/03/Great-Green-Washing-Machine-Report-Part-2_FINAL.pdf, p. 33-39.

showed that washing a recycled polyester fabric, used by Lululemon,⁹³ releases 2.3 times more microfibres than virgin polyester.⁹⁴

74. It is also very likely that millions of Lululemon products will end up in landfill, as Lululemon sells millions of garments every year. Many of Lululemon's products are made from synthetic textile materials that cannot or are not recycled,⁹⁵ which means they contribute to the 92 million tonnes of textile waste that fill the world's landfills every year.⁹⁶
75. In addition, in 2022, Lululemon reported that its main suppliers, who produce around 84% of Lululemon's production value, used 29.2 billion litres of fresh water.⁹⁷
76. Finally, as we have seen above, Lululemon's supply chain is sourced from countries that rely heavily on fossil fuels, particularly coal.⁹⁸ In addition, Lululemon reports that in 2022, only 15% of the electricity used by its manufacturers and materials suppliers came from renewable sources. Although Lululemon claims to be committed to eliminating the use of coal on site, its suppliers continue to use coal-fired boilers.⁹⁹ Burning coal not only emits greenhouse gases, but also toxic and carcinogenic pollutants into the air, water and land - UN Secretary General António Guterres has urged governments and private companies to end their reliance on coal, calling it "the single most important step towards meeting the Paris Agreement's 1.5 degree target".¹⁰⁰

VI. DISCUSSION: LULULEMON'S ENVIRONMENTAL CLAIMS CONSTITUTE MISLEADING COMMERCIAL PRACTICES AND FAIL TO COMPLY WITH THE RULES GOVERNING CARBON NEUTRALITY CLAIMS

77. As mentioned earlier, Lululemon launched its *Be Planet* marketing campaign in 2020.¹⁰¹ The contradiction between the message of Lululemon's *Be Planet* marketing campaign and the actual environmental impact of Lululemon's actions and products, as outlined in the previous section, is glaring. This section identifies examples of Lululemon communications containing environmental claims and explains how they fail to comply with the applicable provisions.
78. The main media for these claims are
 - a. The "Our sustainable impact" page of the French Lululemon website¹⁰² - the various statements on this page do not contain hyperlinks to more detailed pages;
 - b. The "Our Planet" page on Lululemon's international English-language website¹⁰³ and linked pages - this is considerably more detailed than the French site, but some

⁹³ See, for example, the Lululemon France online shop: "Ultra-lightweight waist-length T-shirt", online: <https://www.lululemon.fr/fr-fr/p/t-shirt-ultra-le-ger-longueur-taille/prod11680552.html>. This T-shirt is described as ultra-light and is made from 100% recycled polyester. It is also treated with a "natural additive derived from plant seeds" to wick away sweat.

⁹⁴ 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>.

⁹⁵ Concordia Precious Plastic Project, "Microplastic Pollution and the Fast Fashion Industry", supra.

⁹⁶ TheRoundup.org, "17 Most Worrying Textile Waste Statistics & Facts", supra

⁹⁷ Lululemon, 2022 Impact Report, supra

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ United Nations Climate Change, "UN Chief Calls for Immediate Global Action to Phase Out Coal" (2 March 2021), online: <https://unfccc.int/fr/node/268711>.

¹⁰¹ Lululemon - Press Releases "Lululemon athletica Inc. releases Impact Agenda, Unveiling its Social and Environmental Goals and Strategies to Create a Healthier Future": 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>

¹⁰² Lululemon France, Our Sustainable Impact, online: <https://www.lululemon.fr/fr-fr/c/communaute/a-propos/notre-impact-durable> (screenshots attached)

¹⁰³ Lululemon Inc, Our Impact, online: <https://shop.lululemon.com/en-ca/story/sustainability> (screenshot attached)

of the statements made there are included in the brochure mentioned in the next point;

- c. The French-language brochures "Notre Impact Environnemental 2020"¹⁰⁴ dated October 2020 and "Points saillants de l'impact 2021" ;¹⁰⁵
- d. The various Programmes and more detailed Impact Reports, available in English only, from the pages of the two sites mentioned above.

79. Copies and screenshots of these media as seen by the public are provided in the Annex to this notice. Where the French version of a claim is not available, we have provided a free translation in the tables below.

80. The declarations concerned can be divided into 3 groups:

- a. Vague, disproportionate and ambiguous environmental claims;
- b. Environmental claims relating to aspects that are insignificant in relation to the impacts generated by Lululemon; and
- c. Environmental claims relating to Lululemon's greenhouse gas emissions.

A. Vague, disproportionate and ambiguous environmental claims

81. Lululemon makes a number of claims - specific examples are listed in the table below - the general message of which is that its practices, products and actions avoid damaging the environment, help to "restore" it and contribute to a "healthy planet".

82. Stand maintains that

- a. These claims are vague, disproportionate, ambiguous and omit substantial information , and therefore constitute misleading commercial practices within the meaning of Articles L. 121-2 and 121-3 of the Consumer Code; and
- b. In particular, the terms underlined in the table below are expressly prohibited under Articles L. 121-2 of the French Consumer Code and L. 541-9-1 of the French Environmental Code as being excessively vague.

83. Examples of claims in this category :

Source(s)	Claims in English	Claims in French / <i>translations</i>
Lululemon: Our impact (screenshot attached) Our sustainable impact lululemon France (screenshot attached)	Our products and actions <u>avoid environmental harm and contribute to restoring a healthy planet.</u>	Our products and actions reduce our impact on the environment and <u>help restore a balanced world.</u>
Lululemon, Impact summary 2020 (screenshot in appendix, p. 18)	Our lives are one with the health of the planet. Our products and actions <u>avoid environmental harm and contribute to restoring a healthy planet.</u>	<i>Our lives are linked to the health of the planet. Our products and our actions <u>avoid damaging the environment and contribute to restoring a healthy planet.</u></i>

¹⁰⁴ Lululemon, Our environmental impact 2020, online:
https://pimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/FR_Impact_Agenda_October_2020_Summary_Hyperlink_FR.pdf (appendix)

¹⁰⁵ Lululemon, Highlights of the 2021 impact, online:
https://images.lululemon.com/is/content/lululemon/EMEA%20SALESFORCE/Community%202.0/Sustainability/Lululemon%20Impact%20Report%20Highlights_FR-FR.pdf (in appendix)

Lululemon: Our planet (site du groupe) (screenshot attached) Our sustainable impact lululemon France (screenshot attached)	By adopting and evolving practices and mindful solutions, we enhance the products we offer and contribute to <u>restoring the environment</u> .	We are committed to creating better products for people and the planet. We adopt practices and create solutions that improve our products, reduce impact and <u>help restore the environment</u> .
Lululemon: Our impact (screenshot attached) Our sustainable impact lululemon France (screenshot attached)	We're adopting practices and creating solutions that enhance our products, minimize negative impact, and contribute to <u>restoring the environment</u> .	We adopt practices and create solutions that improve our products, reduce impact and <u>help restore the environment</u> .
Lululemon, Programme d'impact 2020 (in English) Lululemon, Our environmental impact 2020 (in appendix)	We envision a future where we thrive within the limits of our one planet. That is why we act to <u>avoid environmental harm</u> and contribute to <u>restoring a healthy planet</u> .	Our products and our actions <u>prevent ecological damage</u> and <u>help restore a healthy planet</u> .

1. Claims that are vague, disproportionate, ambiguous and omit substantial information

84. Lululemon's environmental claims, and in particular the examples above, are clearly extremely vague and disproportionate. In particular, the claim that the company "avoids harm to the environment" and contributes to "restoring a balanced world" does not meet the criteria of clarity and justification through precise and measurable elements required by Article L. 121-2 of the Consumer Code.
85. With regard to claims relating specifically to the company's own approach (rather than to its products and/or their packaging), the CNC Guide adds that "The claim must specify whether it concerns all of the company's activities, the production process or one of the product development stages. The company must justify that it has reduced the main environmental impacts associated with its activities. [...] When reading the claim, the consumer must understand the exact approach taken by the company".¹⁰⁶ In all cases, claims must be qualified.¹⁰⁷ Clearly, Lululemon's claims lack precision, justification and nuance.
86. In addition to their lack of clarity and proportionality, these claims omit substantial information (within the meaning of Article L. 121-3 of the French Consumer Code) concerning Lululemon's activities. As explained above, the information available to Stand paints a very different picture of the company:
- Lululemon is part of a global industry that contributes between 1.8% and 8% of the world's greenhouse gas emissions,¹⁰⁸ the vast majority of which are generated by its value chains.¹⁰⁹
 - Lululemon has a huge supply chain which produces significant greenhouse gas emissions and, since making its *Be Planet* commitments, has more than doubled its scope 3 emissions to 1,691,009 tCO₂e.¹¹⁰ These emissions are also expected to continue to rise, with Lululemon's stated aim of doubling its sales in 2021 by 2026.¹¹¹

¹⁰⁶ CNC, Practical Guide, p. 65-66

¹⁰⁷ CNC, Practical Guide, p. 65-66

¹⁰⁸ McKinsey & Company study, supra

¹⁰⁹ Apparel Impact Institute and World Resources Institute studies, supra

¹¹⁰ Lululemon, 2022 Impact Report, supra

¹¹¹ Lululemon, Press release on five-year growth plan, supra

- The products most commonly used by Lululemon in its material mix - polyester and nylon - are produced from fossil fuels and are known to release significant quantities of microplastics into the world's oceans and rivers when washed.
 - Lululemon chooses to transport a higher percentage of its products by air freight than its competitors, a mode of transport that generates far more greenhouse gas emissions than sea freight.¹¹²
 - Lululemon's supply chain operations used more than 29 billion litres of fresh water in 2022.¹¹³
 - A significant (but unknown to Stand) quantity of Lululemon clothing and packaging ends up in landfill every year.
87. References to "restoring the environment" are particularly problematic: while Lululemon mentions on its website and in its latest Programme and Impact Report¹¹⁴ certain initiatives aimed at reducing certain harmful effects on the environment linked to its activities, the notion of "restoring" goes further in the consumer's mind and none of these initiatives seem to justify it.
88. Finally, the imagery used by Lululemon in combination with its message contributes to the misleading nature of the *Be Planet* marketing campaign. The images of rivers, healthy forests and nature do not reflect the nature of Lululemon's business or the impact of its activities and products on the environment.

2. Expressly prohibited as too vague

89. The terms underlined in the table above are expressly prohibited by articles L. 121-2 of the French Consumer Code and L. 541-9-1 of the French Environmental Code as being too vague. In particular:
90. The expressions "reduce our impact on the environment" and "contribute to restoring a balanced world" and "contribute to restoring the environment" are equivalent to the examples of "environmentally friendly", "nature-friendly", "climate-friendly" or "preserves the environment" listed in the CNC Guide as contravening the provisions of Article L. 121-2 of the Consumer Code; and
91. The expressions "reduce our impact on the environment" and "contribute to restoring a balanced world" and "contribute to restoring the environment" are clearly equivalent to the words "respectful of the environment" referred to in article L. 541-9-1 of the French Environment Code and the examples of equivalent terms listed in the CNC Guide, such as "eco-responsible"; "nature-friendly"; "planet-friendly"; "environment-friendly"; "good for the environment"; "good for the climate"; "good for the planet"; or "nature-friendly".

B. Environmental claims relating to aspects that are insignificant in relation to the impacts generated by Lululemon's activities

92. Lululemon uses its extensive marketing presence to overstate the importance of certain environmental initiatives that provide only minor improvements or benefits in relation to the company's overall climate and environmental footprint. This type of marketing is expressly targeted by the applicable texts, as it has the effect of distracting attention from the significant environmental damage caused by the company's activity and of giving consumers the general impression of a company that respects the planet.
93. Stand maintains that:

¹¹² Article by PublicEye, *supra*

¹¹³ Lululemon, Impact Report 2022, *supra*

¹¹⁴ Lululemon, Impact Report 2022, *supra*

- a. These claims relate to minor advantages and therefore constitute misleading commercial practices within the meaning of Articles L. 121-2 and 121-3 of the French Consumer Code; and
- b. The references to the sustainability of materials and the use of renewable energy, apart from being general references to minor benefits, do not comply with the criteria laid down by the CNC Guide for the use of these terms in particular, and are therefore all the more misleading.

94. Examples of claims in this category :

Source(s)	Claims in English	Claims in French / translations
Lululemon Like New website: About Like New (screenshot attached)	Getting after our goals. Like New is part of lululemon's commitment to support a circular ecosystem. By lengthening the lifecycle of gear that's built to be reused and recycled, we're moving towards our goal of having an end-of-use solution for 100% of our products by 2030. We're also reducing greenhouse gas emissions within our supply chain and have been sourcing only renewable electricity for our owned and operated facilities since 2021.	Pursuing our objectives. <i>Like New is part of Lululemon's commitment to supporting a circular ecosystem. By extending the life cycle of equipment designed to be reused and recycled, we are moving closer to our goal of having an end-of-use solution for 100% of our products by 2030. We are also reducing greenhouse gas emissions within our supply chain and, since 2021, we have been sourcing exclusively renewable electricity for the facilities we own and operate.</i>
Lululemon, 2020 Impact Programme (in English) Lululemon, Our environmental impact 2020 (in appendix)	SUSTAINABLE PRODUCT INNOVATION Make 100 percent of our products with sustainable materials and end-of-use solutions, towards a circular ecosystem by 2030. SUSTAINABLE MATERIALS Achieve at least 75 percent sustainable materials for our products by 2025. CIRCULARITY Offer our guests new options to extend the life of our products by 2025. CLIMATE CHANGE Source 100% renewable electricity to power our own operations by 2021 and reduce carbon emissions across our global supply chain by 60 percent per unit of value added, meeting our Science-Based Targets by 2030.	SUSTAINABLE PRODUCT INNOVATION Manufacture 100% of our products from sustainable materials and use end-of-life solutions that promote a circular ecosystem by 2030. SUSTAINABLE MATERIALS To achieve at least 75% use of sustainable materials in our products by 2025. CIRCULARITY Offering our guests new options to extend the life of our products by 2025. CLIMATE CHANGE Procure 100% renewable electricity to power our own operations by 2021, and reduce carbon emissions throughout our supply chain by 60% per unit of value added to meet our science-based targets by 2030.
Lululemon Like New website: About Like New (Screenshot attached)	Good feelings all around. What's better than great finds on gently used lululemon gear? Knowing you're choosing better for the planet by extending the lifecycle of every score.	<i>What's better than great finds in used Lululemon clothing? Knowing that you're making a better choice for the planet by extending the life cycle of each piece.</i>
Lululemon Press Release: lululemon Delivers on its	The new initiatives are the latest efforts from the brand under its Be Planet pillar, which is focused on	<i>These new initiatives are the brand's latest efforts under its Be Planet pillar, which</i>

<p>Impact Agenda Commitments with Two New Sustainability Initiatives Launching in May (Screenshot attached)</p>	<p>making products that are better in every way for people and the planet. Lululemon is actively working to help create a healthier future, ...</p>	<p><i>focuses on making products that are better for people and the planet.</i> <i>Lululemon is actively working to create a healthier future, ...</i></p>
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1. Claims relating to minor benefits

95. In order not to be considered a misleading commercial practice, an environmental claim must still relate to a significant environmental aspect in terms of the impacts generated by the product, its packaging, or the product-packaging combination.¹¹⁵ The evaluation of an environmental claim takes into account the most significant environmental impacts generated by the product during its life cycle, including its supply chain. The CNC Guide thus expressly states that highly polluting industries must therefore ensure that their environmental claims are precise in this sense, by being formulated in a relative manner,¹¹⁶ and that it is advisable to refrain from unduly emphasising the importance of its positive aspects when these are in reality only marginal or when the overall environmental impact of the product throughout its life cycle is negative.¹¹⁷
96. An example of how Lululemon highlights its efforts to reduce environmental damage can be found in the messaging around its Like New programme.¹¹⁸ This marketing uses the relatively minor benefits of this programme to repeat and emphasise the message that Lululemon is "helping to restore a healthier planet".
97. Although this scheme may lead to relatively minor reductions in the environmental damage caused by the company, it is misleading and disproportionate to use the scheme to suggest that a consumer who participates in it is "helping to restore a healthier planet":
- a. Even if it were extremely well designed, such a programme would have only a minor impact on the company's impact, and an even more minor impact on the planet's 'health'.
 - b. In addition, the programme is not well designed to achieve meaningful circularity. Products must be returned in 'as new' condition and gift cards given in exchange for 'as new' products can only be used for new items. In other words, while potentially encouraging the use of certain garments for longer periods, the programme also encourages increased consumption of new garments. While some discarded clothing may avoid landfill for a few years, nothing about this programme will "restore a healthier planet".
 - c. The programme is not available in France or in Europe more widely, but Lululemon refers to it in its communications, particularly in France.¹¹⁹
98. The programme also lacks transparency, as Lululemon does not disclose any information on the total quantity of its products sold in Canada or worldwide that are disposed of in landfill sites or on the relative proportion of products returned under this programme that are resold.

¹¹⁵ CNC, *Practical Guide supra*, p. 12

¹¹⁶ Ibid. - citing: Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market: [https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX:52021XC1229\(05\)](https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX:52021XC1229(05))

¹¹⁷ Ibid. p. 24

¹¹⁸ Lululemon Like New, online: <https://likenew.lululemon.com/pages/about>

¹¹⁹ Like New is only available in the US, not in Europe. See Frequently Asked Questions available on the Like New website, in particular the answer to the question "Where can I buy Lululemon Like New?", online: <https://likenewlululemon.zendesk.com/hc/en-us/articles/5135015128087-Where-can-I-buy-lululemon-Like-New-items>

2. Sustainability claims

99. The claim that Lululemon is on track to "manufacture 100% of its products with sustainable materials by 2030" also appears to be based on a marginal benefit, as well as being ambiguous. The amount of 'sustainable' materials that will be used in each product is not mentioned - in other words, Lululemon does not mention that each of its products will not be made from 100% 'sustainable' materials, nor how much of each product will be made from such materials, nor how this notion is defined. Moreover, for the reasons given above, Lululemon's products, even if made from recycled polyester or nylon, will continue to harm the environment.¹²⁰
100. In addition, the CNC Guide indicates that a claim may only contain the term "sustainable" to refer to a product's ability to last over time or to its consideration of sustainable development issues. In the first case, the claim must include information on the additional lifespan of the product compared to the average lifespan of similar products on the market. In the second case, it must relate to the company's approach and not to a product, at the risk of being misleading.¹²¹ The above claims do not meet these criteria and use the term "sustainable" in a misleading way.

3. Claims relating to the use of renewable energy

101. Finally, Lululemon states that "we source 100% renewable electricity for the facilities we own and operate". However, Lululemon fails to tell consumers the extent to which this reduces the company's total greenhouse gas emissions: the facilities owned and operated by Lululemon have only ever accounted for an extremely small percentage of the company's greenhouse gas emissions, whereas the company's scope 3 greenhouse gas emissions accounted for over 99.7% of the company's emissions in 2022,¹²² and these continue to rise. This claim is therefore also misleading as it not only relates to a very minor aspect of the impact of Lululemon's activities, but also omits substantial information.
102. The CNC Guide also provides a framework for claims relating to the use of renewable resources. It specifies that the company must be able to specify the type of renewable energy used (photovoltaic, solar-thermal, wind, hydro, biomass, geothermal, etc.) and the overall proportion of renewable energy used in the product's production process. It even goes on to say that if a company wishes to highlight the fact that it uses renewable energy on its product, the proportion of renewable energy in the product's production process must be substantial in relation to the product's life cycle.¹²³ This makes it all the more clear that these claims are misleading.

C. Environmental claims relating to greenhouse gas emissions

103. The way in which Lululemon publicly presents its plans to reduce greenhouse gas emissions omits important information that makes these claims misleading.
104. Stand maintains that:
- a. These claims are vague, disproportionate, ambiguous and omit substantial information, or are even false, and therefore constitute misleading commercial practices within the meaning of Articles L. 121-2 and 121-3 of the Consumer Code; and
 - b. In addition, some of these claims may be assimilated to carbon neutrality claims and therefore contravene the provisions of article L. 229-68 of the French Environment Code.

¹²⁰ While Lululemon includes rPET (recycled polyester) in its definition of a sustainable material, its use poses significant environmental problems, as we saw earlier in the document.

¹²¹ CNC, *Practical Guide supra*, p. 44

¹²² Lululemon, 2022 Impact Report *supra*

¹²³ CNC, *Practical Guide supra*, p.50

105. Examples of claims in this category :

Source(s)	Claims in English	Claims in French / <i>translations</i>
<p>(English version) Lululemon website: Our Planet (Screenshot attached)</p> <p>(French version) Lululemon, Highlights of the 2021 impact (in appendix)</p>	<p>Climate Action</p> <p>Meet our science-based climate targets by achieving:</p> <ul style="list-style-type: none"> 60% absolute reduction of greenhouse gas (GHG) emissions in all owned and operated facilities² (Scope 1 and 2) by 2030 60% intensity reduction of GHG emissions across our global supply chain³ (Scope 3) by 2030 	<p>Climate action</p> <p>[Objective] Ongoing: Achieving our science-based climate targets for 2030</p> <ul style="list-style-type: none"> [60%] absolute reduction in GHG emissions from all owned and operated facilities (scope 1 and 2) [-60%] reduction in GHG intensity in goods and services purchased, and in upstream transport and distribution (Scope 3)
<p>Groupe Lululemon website: Our planet (English version) (screenshot attached)</p> <p>Lululemon, Highlights of the impact 2021, (in appendix)</p>	<p>Goal Met: Achieve 100% renewable electricity to power owned and operated facilities by 2021</p>	<p>[Objective] Completed: To use [100%] renewable electricity to power the facilities we own and operate.</p>
<p>Lululemon, Impact 2020 Programme (screenshot attached)</p> <p>Our sustainable impact lululemon France (screenshot attached)</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>We are working towards a carbon-neutral future, starting by cutting our own emissions. We are setting science-based targets approved by Science Based Targets. To achieve these targets, we are implementing strategies to invest in the transition to renewable energy, carbon footprint reduction and energy efficiency across our supply chains.</p>
<p>Lululemon, Impact 2020 Programme (English version) (screenshot attached)</p>	<p>By 2030, we will decarbonize our value chain, meeting ambitious, science-based targets.</p>	<p><i>By 2030, we will decarbonise our value chain, achieving ambitious targets based on science.</i></p>
<p>Groupe Lululemon website: Our action for the climate (English version) (screenshot attached)</p>	<p>We are making progress on our climate goals around carbon reduction.</p>	<p><i>We are making progress towards our climate targets for reducing carbon emissions.</i></p>

1. Claims that are false and/or omit essential information

106. The evidence available to Stand shows that Lululemon's claims concerning its greenhouse gas emissions are false, or at the very least omit a large amount of substantial information, and therefore constitute misleading commercial practices within the meaning of Articles L. 121-2 and L. 121-3 of the French Consumer Code.

107. In particular, Lululemon claims to be "working towards a carbon-neutral future, starting by reducing [its] own emissions throughout [its] value chain". However, these claims are incompatible with the following factual elements:

- a. Lululemon's scope 3 emissions, which account for over 99% of the company's carbon footprint, have more than doubled since 2020.¹²⁴

¹²⁴ Lululemon, 2022 Impact Report, *supra*

- b. The vast majority of Lululemon's supply chain is located in countries that rely heavily on fossil fuels and have minimal renewable energy networks, including Vietnam, Cambodia, Sri Lanka, Bangladesh and Indonesia.¹²⁵
 - c. Vietnam is the country where Lululemon sources the most coal (39%).¹²⁶ Of all the countries in South-East Asia, Vietnam is the fastest-growing in terms of coal consumption, with an annual growth rate of 11%.¹²⁷ By 2021, coal will account for 47% of the country's electricity production.¹²⁸ What's more, between 2017 and 2020, Vietnam's carbon emissions rose by more than 50%.¹²⁹
108. Lululemon also omits extremely substantial information by describing its greenhouse gas emission targets more precisely, making them at the very least misleading, if not false by omission. To illustrate these practices, the entire first statement in the table above is presented and commented on:¹³⁰

Climate action

- *Achieve our science-based climate targets by :*
- *60% absolute reduction in greenhouse gas (GHG) emissions from all owned and operated facilities² (scope 1 and 2) by 2030*
- *60% reduction in GHG emissions intensity across our global supply chain³ (scope 3) by 2030*
- *Becoming a net zero company by 2050⁴*
- *Objective achieved: to use 100% renewable electricity to power the facilities we own and operate by 2021.*

² *The facilities owned and operated are those over which Lululemon has direct operational control. This target refers to Scope 1 and 2 emissions.*

³ *Including purchased goods and services, as well as upstream transport and distribution only. The reduction in intensity is calculated in relation to the net income from operations.*

⁴ *The Science Based Target Initiative's (SBTi) Net-Zero standard requires companies to reduce their emissions by more than 90% and to use permanent carbon removal and storage to offset the last <10% of residual emissions that cannot be eliminated. SBTi has validated our target for 2024.*

109. This representation poses three serious problems.
- a. First of all, Lululemon presents its objectives of reducing Scope 1 and 2 emissions by 60%, without mentioning that these emissions only represent around 0.3% of Lululemon's total greenhouse gas emissions. In other words, the website does not explain that achieving this target will have a negligible impact on Lululemon's overall greenhouse gas emissions. By presenting the scope 1 and 2 emissions reduction targets in this way, Lululemon gives the general (and false) impression that it is aiming for significant reductions in its greenhouse gas emissions.
 - b. Secondly, Lululemon presents its scope 3 emissions reduction targets as "intensity-based". However, intensity-based targets measure the metric tonnes of CO₂ emitted per unit of production, not in absolute terms. Intensity-based decarbonisation targets

¹²⁵ Ibid, above. In 2022, around 39% of their products were manufactured in Vietnam, 14% in Cambodia, 12% in Sri Lanka, 8% in Bangladesh and 7% in Indonesia, and the rest in other regions.

¹²⁶ Ibid.

¹²⁷ Do and Burke, supra

¹²⁸ Ibid.

¹²⁹ International Energy Agency (IEA), supra

¹³⁰ Groupe Lululemon website, "Our planet", online: <https://corporate.lululemon.com/our-impact/our-planet>

are therefore controversial, as they do not guarantee absolute reductions in emissions, particularly in circumstances where a company anticipates significant growth in turnover.¹³¹ The misleading impression conveyed by this representation is that Lululemon's greenhouse gas emissions will reduce to net zero, when in fact they are increasing - since production volume is increasing faster than emissions intensity is decreasing. If Lululemon achieves its sales growth targets for 2026,¹³² it is likely that the company's scope 3 emissions will continue to increase.

- c. Finally, despite Lululemon's many statements about its commitment to restoring a healthy planet, the company is not even on track to meet its own scope 3 emissions reduction target. In its latest impact report, Lululemon states that progress towards the target is not on track: the company's emissions intensity has only decreased by 7%.¹³³ The report states that this environmental initiative "needs to be accelerated".¹³⁴

110. As well as misrepresenting its targets, Lululemon makes a number of general statements about its carbon emissions, including claims that the company is working towards a 'carbon neutral' future, that it is 'decarbonising' its value chain and that it is making progress towards its climate targets. These statements give the misleading impression that Lululemon is reducing carbon emissions throughout its supply chain. This impression is directly contrary to the fact that Lululemon's carbon emissions have increased significantly since the launch of the *Be Planet* marketing campaign, with its total scope 3 emissions doubling between 2020 and 2022.¹³⁵

2. Carbon neutrality claims in breach of article L. 229-68 of the French Environment Code

111. Article L. 229-68 of the French Environment Code applies when an advertisement claims that a product or service is carbon neutral, or any other wording "of equivalent meaning or scope".
112. Through the claims "We are working towards a carbon neutral future" and "By 2030, we will decarbonise our value chain", Lululemon is giving consumers the impression that its activities are moving towards carbon neutrality and will achieve it in the very near future. The company should therefore comply with the transparency requirements governing carbon neutrality claims, namely to make readily available to the public
 - a. A greenhouse gas emissions balance sheet that includes the direct and indirect emissions of the product or service;
 - b. The process by which the product's or service's greenhouse gas emissions are first avoided, then reduced and finally offset, with the greenhouse gas emission reduction trajectory described using quantified annual progress targets; and
 - c. Terms and conditions for offsetting residual greenhouse gas emissions.
113. As explained in the previous section, the information provided by Lululemon in relation to its claims concerning greenhouse gas emissions is inadequate and omits a number of key elements.
114. Most of this information is only available in long Impact Reports or other documents available only in English. Lululemon's French-language communication is limited to the few media listed in the tables above and in the Appendix.

¹³¹ Jack Arnold and Perrine Toledano, "Corporate Net-Zero Pledges: The Bad and the Ugly" *Columbia Center on Sustainable Development*, (1^{er} December 2021), online: <https://ccsi.columbia.edu/news/corporate-net-zero-pledges-bad-and-ugly>

¹³² Lululemon, Five-Year Growth Plan, *supra*

¹³³ Lululemon, 2022 Impact Report, *supra*

¹³⁴ *Ibid.*

¹³⁵ Lululemon impact reports 2020, 2021 and 2022, *supra*

VII. CONCLUSION

115. The urgent need to combat climate change and environmental pollution requires the clothing industry to be clear and transparent with its customers about the climate and environmental impacts caused by its activity. Consumers, who make choices on the basis of climate and environmental information, must not be misled, and companies making sincere efforts must not be put at a disadvantage by greenwashing.
116. As a clothing company responsible for significant greenhouse gas emissions, large quantities of waste and the release of microplastics into the environment, Lululemon should not present itself as a company whose products and actions contribute to "restoring a healthy planet".¹³⁶ Representations of this nature are misleading because they take no account of these harmful effects and are extremely vague and disproportionate.
117. This warning is not, of course, intended as a criticism of the efforts actually made by Lululemon to reduce the impact of its business and its products on the environment. Reducing the amount of virgin polyester in its products, increasing the energy efficiency of its shops, reducing the intensity of water use and water pollution, developing a clothing reuse programme and reducing single-use plastic are all commendable initiatives. However, they do not allow Lululemon to overuse environmental claims in its marketing.
118. On the basis of the in-depth research carried out by Stand, for which this alert proposes a presentation to the DGCCRF in order to assist it in its fight against greenwashing, it seems clear that the Be Planet campaign and in particular the claims examined in the previous section contravene the applicable provisions of French law in this area.
119. Stand therefore respectfully invites the DGCCRF to open an investigation into Lululemon's environmental claims and remains at its disposal for any further information.

¹³⁶ Lululemon France, Our impact, : <https://www.lululemon.fr/fr-fr/c/communaute/a-propos/notre-impact-durable>. See the "Be Planet" section.

APPENDIX