

Class Action Alleges Lululemon Engages in Greenwashing

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July 18, 2024

Last week, a Florida consumer filed a putative class action against Lululemon, alleging that the company's "Be Planet" campaign "goes too far by creating the general, express, and implied impression in consumers' minds" that the company is contributing to a healthier planet when, in reality, the company is "causing significant damage to the environment, which is only on track to get worse."

The complaint comes on the heels of the announcement in May of this year that Canada's Competition Bureau opened a formal investigation into the company's environmental marketing claims following a complaint by stand.earth. If the Bureau finds that Lululemon has made materially false and misleading representations to the public, the company could be fined a penalty of up to 3% of their gross global profits for each year the company ran the ads.

The complaint filed in Florida runs over 50 pages and covers a lot of ground, but here are some highlights.

In 2020, Lululemon announced its "Be Planet" campaign, which included five goals to reduce the company's environmental impact over the next five-to-ten years. The plaintiffs allege that the campaign is misleading because Lululemon is causing more harm than good. For example, the complaint alleges that the company's greenhouse gas emissions have more than doubled since the start of the Be Planet campaign and that the company relies significantly more on air freight than its competitors.

In addition to challenging claims about Lululemon's future goals, the complaint also focuses on claims that the company has made about its present actions and achievements. For example, in its 2020 Impact Agenda, Lululemon stated: "Our products and actions avoid environmental harm and contribute to restoring a healthy planet." Despite these types of claims, the plaintiffs outline a number of actions - like those noted above - that allegedly cause environmental harm.

The plaintiffs allege that even if some of the things that Lululemon is doing - such as coming up with an end-of-use solution for all of its products by 2030 and sourcing only renewable electricity for its owned and operated facilities - will benefit the environment, those benefits are minor in comparison to the greater harm the company is causing. Lululemon's marketing, therefore, leaves consumers with a misleading impression about the company's overall impact.

The complaint also takes issue with Lululemon's use of synthetic materials in its fabrics. For example, it alleges that polyester and nylon represent over 60% of the company's material mix, and they release significant amounts of microplastics. Moreover, although "Lululemon claims that it is

converting to recycled polyester and nylon in its products, 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.”

The complaint was just filed and we only have one side of the story, so it’s too early to predict how this case will turn out. What we can predict, though, is that we’re likely to continue seeing these types of lawsuits and allegations. Stay tuned for updates. In the meantime, if your company makes green claims in marketing copy, in a sustainability report, or in some other public-facing communication it’s worth taking a look at how your claims and your company’s efforts compare against those alleged in this complaint.