



Infringement Notice

Spam Act 2003

I, Jeremy Fenton, an authorised person for the purposes of clause 9 of Schedule 3 to the *Spam Act 2003 (Spam Act)*, having reasonable grounds to believe that Lululemon Athletica Australia Pty Ltd ACN 110 186 233 (**Lululemon**), has committed one or more contraventions of a particular civil penalty provision, HEREBY give an infringement notice (**the Notice**) under subclause 3(1) of Schedule 3 to the Spam Act to:

LULULEMON ATHLETICA AUSTRALIA PTY LTD

at

Level 3, 88 Langridge Street, Collingwood VIC 3066

Details of Alleged Civil Contraventions

It is alleged that Lululemon contravened:

- subsection 18(1) of the Spam Act by sending CEMs that had an Australian link without a functional unsubscribe facility, and which were not designated CEMs.

Amount of Penalty

The total pecuniary penalty (**the penalty**) for the alleged civil contraventions is **\$702,900**. The penalty is calculated in accordance with item 2 of the table under subclause 5(1) of Schedule 3 to the Spam Act, as set out in paragraph 4.1 of Schedule 1 to this Notice.

Payment of Penalty

The penalty should be paid to the Australian Communications and Media Authority (**ACMA**), on behalf of the Commonwealth, into the following account within 28 days of receipt of the Notice. Please include the narration [REDACTED] with your payment:

| | |
|------------|------------|
| [REDACTED] | [REDACTED] |

If the penalty is paid

If the penalty specified in the Notice is paid to the ACMA, on behalf of the Commonwealth, within 28 days after the Notice is given to Lululemon, the matters outlined in this Notice will not be dealt with by the Federal Court of Australia and any liability for the alleged contraventions that are the subject of this Notice is discharged.

If the penalty is not paid

If you do not pay the penalty by **5 January 2026** the ACMA may take action for the alleged contravention(s).

That action may include the institution of civil penalty proceedings in the Federal Court. The penalties that the Court can impose are potentially significantly higher than that in an Infringement Notice (see section 570 of the *Telecommunications Act 1997*).

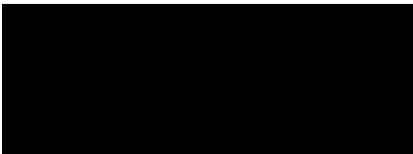
Withdrawal of the infringement notice

The ACMA may withdraw this Infringement Notice. It may do so of its own volition or upon your request. To be effective the withdrawal must occur within 28 days after the Infringement Notice was given.

If you wish to apply for withdrawal of the Infringement Notice, you should write as soon as practicable setting out the basis/reasons for the request. Your application should be addressed to me in the first instance.

If the Infringement Notice is withdrawn after the penalty is paid, the penalty will be refunded.

DATE: **8 December 2025**



Jeremy Fenton
Authorised Infringement Notice Officer
Australian Communications and Media Authority

SCHEDULE 1

In accordance with Clause 4 of Schedule 3 to the Spam Act, brief details of each of the alleged civil contraventions are set out below.

1. Background

- 1.1. Lululemon Athletica Australia Pty Ltd ACN 110 186 233 (**Lululemon**), is a registered company under the *Corporations Act 2001*, with a registered office at Level 3, 88 Langridge Street, Collingwood VIC 3066.
- 1.2. On 16 April 2025, the ACMA commenced an investigation into whether Lululemon had contravened the Spam Act.

2. Matters giving rise to the Infringement Notice

- 2.1. During the period 10 December 2024 to 14 December 2024, Lululemon sent electronic messages to consumers.
- 2.2. Information obtained from Lululemon showed that one of the purposes of the messages was to offer to supply, or to advertise or promote Lululemon's goods and services to consumers. Therefore, the messages described at paragraph 2.1 were commercial electronic messages (CEMs), as defined in section 6 of the Spam Act.
- 2.3. The CEMs were not 'designated' CEMs as described in Schedule 1 to the Spam Act.
- 2.4. The CEMs had an Australian link as defined in section 7 of the Spam Act. Lululemon's business registration was in Australia at the time the messages were sent.
- 2.5. The CEMs did not contain a functional unsubscribe facility as required by subsection 18(1) of the Spam Act.
- 2.6. These are a subset of the contravention findings set out in the ACMA's investigation findings given to Lululemon on 16 October 2025.

3. Relevant civil penalty provisions of the Spam Act

- 3.1. Subsection 18(1)
 - 3.1.1. Subsection 18(1) of the Spam Act provides that a person must not send, or cause to be sent, a CEM that has an Australian link and is not a designated message, unless the CEM contains a statement to the effect that the recipient may use an electronic address set out in the CEM to send an unsubscribe message to the person who authorised the sending of the CEM (an unsubscribe statement).
 - 3.1.2. Subsection 18(1) of the Spam Act also provides that the unsubscribe statement must contain a functional unsubscribe facility whereby the electronic address is reasonably likely to be capable of receiving the recipient's unsubscribe message and the electronic address complies with the condition, or conditions (if any) specified in the regulations.
 - 3.1.3. Lululemon sent CEMs to electronic addresses between 10 December 2024 to 14 December 2024 that did not include an unsubscribe statement nor a functional unsubscribe facility as described in the above paragraphs 3.1.1 and 3.1.2.
 - 3.1.4. Accordingly, the ACMA has reasonable grounds to believe that Lululemon has contravened subsection 18(1) of the Spam Act between 10 December 2024 to 14 December 2024.
 - 3.1.5. Subsection 18(1) of the Spam Act is a civil penalty provision.

4. The amount of the penalty

- 4.1. The total penalty specified in this Notice is **\$702,900** calculated in accordance with the table in clause 5(1) of Schedule 3 to the Spam Act, as shown in the tables below.

Penalties for contraventions of subsection 18(1) of the Spam Act

| Date of contravention | Number of contraventions of subsection 18(1) | Penalty units¹ | Penalty imposed |
|------------------------------|---|----------------------------------|------------------------|
| 10/12/2024 | 9,301 | 500 | \$165,000 |
| 11/12/2024 | 8,327 | 500 | \$165,000 |
| 12/12/2024 | 7,713 | 500 | \$165,000 |
| 13/12/2024 | 7,429 | 500 | \$165,000 |
| 14/12/2024 | 13 | 130 | \$42,900 |
| TOTAL | 32,783 | 2,130 | \$702,900 |

¹ For alleged contraventions on or after 7 November 2024, the amount of a penalty unit is \$330, as set by section 4AA of the *Crimes Act 1914*.