Proskauer

Price Gouging Weekly Round Up

July 13, 2020

Price gouging enforcement and litigation is front and center for company counsel and business managers nationwide. Our weekly round up highlights some of the most relevant news and information to our clients and friends.

House Holds Hearing on Increased Risks Faced by Consumers During COVID-19

On July 9, 2020, the Subcommittee on Consumer Protection and Commerce of the Committee on Energy and Commerce held a hearing titled “Consumers Beware: Increased Risks During the COVID-19 Pandemic.” The hearing addressed the increased risks that consumers are facing due to COVID-19 related scams, including price gouging. According to Chairman Frank Pallone, Jr., “[w]ith widespread shortages and supply chain delays on key medical equipment and household essentials, opportunistic sellers are also price gouging consumers.” Chairman Pallone joined Chair Schakowsky in introducing the COVID-19 Price Gouging Prevention Act (the “Act”), which would prohibit the sale of consumer goods and services at unconscionably excessive prices during a public health emergency. The legislation was included in the Heroes Act, which passed the House in May, but has not yet been acted on by the Senate. According to Kevin Anderson, North Carolina Senior Deputy Attorney General, the legislation would make it easier for state attorneys general to bring justice as it not only gives states the ability to enforce the federal law, but does not preempt states from acting in accordance with their own laws. Anderson also added that having the ability to enforce the federal statute helps states fill in gaps that state laws do not cover.

Wisconsin Ends Abnormal Economic Disruption

On July 3, 2020, Wisconsin Governor Tony Evers announced the end of Wisconsin's abnormal economic disruption. According to the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), "[t]he end of the abnormal economic disruption declaration means that future price changes will not be subject to price increase prohibitions described in state law. Complaints about prices that existed before the end of the emergency declaration will continue to be investigated, even if those complaints are filed after the declaration has ended." Since March 12, 2020, the DATCP received a total of 725 price gouging complaints, with 39% of the complaints relating to grocery items, 35% relating to household supplies, 11% relating to personal protective equipment, and the other 18% related to other items. Approximately 35% of the complaints the Department's Bureau of Business Trade Practices has received have been closed.

Pennsylvania Pharmacy Fined for Price Gouging

Pennsylvania Attorney General Josh Shapiro announced on July 7, 2020, that a Chester County pharmacy has agreed to pay a fine of $5,300 for price gouging individual N95 masks. According to Attorney General Shapiro, the pharmacy sold 100 masks for $25 each. The pharmacy also agreed to reimburse customers who purchased the masks, for a total of approximately $2,000. "We won't tolerate illegal price gouging during this emergency, and we're taking action every day to stop it — here in Chester County and across Pennsylvania," Attorney General Shapiro said. Attorney General Shapiro added that Pennsylvanians "have a right ... to purchase life-saving goods at reasonable prices whether in store or online."

Los Angeles Strengthens Price Gouging Penalties

On July 7, 2020, the Los Angeles County Board of Supervisors approved an ordinance to strengthen protections against COVID-19 price gouging. Recommended by Supervisor Mark Ridley-Thomas, the ordinance authorizes civil actions against price gougers, with penalties up to $10,000 per violation. According to Ridley-Thomas, "[i]t is unconscionable to exploit people's fears during a pandemic and force them to pay exponentially more than is reasonable for goods and services, essential or otherwise." Since March 4, 2020, the Department of Consumer and Business Affairs has received nearly 2,000 price gouging complaints.

Staten Island Business Charged With Violating Defense Protection Act

On July 8, 2020, a Staten Island business owner was arrested and charged with violating the Defendant Production Act by stockpiling and selling personal protective equipment and other medical goods at prices in excess of the prevailing market price. “The defendant allegedly took advantage of the pandemic and the public’s urgent need for life-saving PPE to enrich himself illegally,” said Richard P. Donoghue, U.S. Attorney for the Eastern District of New York in a statement. Prosecutors claim that the business sold items at prices ranging from 150% to 500% greater than their purchase price. According to Philip Bartlett, Inspector-in-Charge, USPIS, “the defendant chose personal greed over the life and safety of first responders and the heroes in the medical community. Price gouging, hoarding, and lying to consumers will always be uncovered by law enforcement; and those participating in such schemes will be brought to justice.” For more information on the Defense Production Act, read our Federal Price Gouging Enforcement Update.

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