Proskauer

Price Gouging Weekly Round Up

October 19, 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.

Department of Justice Continues Defense Production Act Enforcement

On October 13, 2020, the Department of Justice announced that a Santa Monica women had been charged with price gouging N95 masks in violation of the Defense Production Act. According to the DOJ, the women sold the masks at vastly inflated prices sometimes nearly 1,100 percent over list price. The women admitted to charging inflated prices and pled guilty to the misdemeanor offense. According to the plea agreement, the women "accumulated and resold the masks at prices in excess of the prevailing market prices willfully, that is, with knowledge that masks had been designated as scarce materials and with knowledge that accumulation of the designated materials to resell in excess of prevailing market prices was unlawful." See our prior post addressing DOJ enforcement under the Defense Production Act.

Virginia Considers Expansion to Price Gouging Law

On October 7, 2020, Virginia's Legislature passed a revision to its Post-Disaster Anti-Price Gouging Act. Under current law, the Act's prohibition on selling necessary goods and services at an unconscionable price during a declared emergency does not extend to manufacturers and distributors unless it advertises to consumers. While the proposed bill would expand the restrictions to certain manufacturers and distributors engaged in consumer transactions, it would not reach manufacturers or distributors of agricultural goods or services unless the manufacturer or distributor advertises such agricultural goods or services. The Governor has until October 21, 2020 to sign the bill.

Oregon Officials Warn of Price Gouging

As Oregon residents are recovering from the wildfires that recently swept across the state, officials are warning of post-disaster price gouging. According to the director of Consumer Outreach and Education for the Oregon Attorney General, “[w]e have heard from a number of Oregonians about things like price gouging, from the very beginning of the wildfires that was a big issue for folks trying to find housing, hotels, motels, and a variety of lodging.” As recently reported, Oregon is currently under overlapping states of emergency resulting from the COVID-19 pandemic and the wildfires.

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