Proskauer

Price Gouging Weekly Round Up

December 14, 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 for our clients and friends.

Washington Attorney General Issues Guidance Regarding Third-Party Food Delivery Fees

On December 7, 2020, Washington Attorney General Bob Ferguson issued guidance for third-party food delivery services regarding increased prices. The guidance follows Washington Governor Jay Inselee's November 19 proclamation enacting a cap on fees third-party delivery services can charge restaurants. The proclamation capped delivery fees at 15%, and total fees at 18% of the purchase price. Attorney General Ferguson's guidance is aimed at helping companies "avoid violations of Washington's Consumer Protection Act." Attorney General Ferguson further provided examples of conduct likely to violate the Consumer Protection Act, including "[c]harging any fee in excess of fee limits set by state or local governments."

Price Gouging Lawsuit Against eBay Voluntarily Dismissed Following Settlement

On December 4, 2020, a lawsuit brought against eBay alleging that the company allowed price gouging on its website was voluntarily dismissed. The dismissal comes after the parties reached an undisclosed settlement agreement regarding the allegations. The class action, originally brought in May 2020, cited numerous instances of eBay sellers charging unlawful prices for PPE equipment in violation of California's price gouging law.

Peoria City, Illinois Enacts Limit on Third-Party Delivery Fees

Following the lead of other cities and states around the country, the Peoria City Council recently implemented a cap on third-party delivery fees. The new ordinance limits delivery fees to 10% of the price of the order. The ordinance is set to automatically expire once restaurants are operating at a 50% or greater capacity for indoor dining for at least two months. According to Councilman Sid Ruckriegel, "I think that this helps both protect our restaurants, which are important to our fabric and our local economy, and also our citizens."

Kentucky Governor Renews Price Gouging Statute

On December 9, 2020, Kentucky Governor Andy Beshear renewed Kentucky's prohibition on price gouging for the duration of Kentucky's state of emergency. The executive order provides that "[n]o person, within the meaning of KRS 446.010, shall sell or offer to sell any good or service delineated in KRS 367.374(l)(b) at a price grossly in excess of the price prior to the declaration by Executive Order 2020-215 on March 6, 2020, that a Statewide State of Emergency exists in the Commonwealth of Kentucky." The order is subject to the qualifications and limitations set forth in Kentucky's price gouging statute, including increased costs to sellers.

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