Proskauer

Price Gouging Weekly Round Up

March 8, 2021

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.

California Governor Loosens Price Gouging Restrictions

On March 4, 2021, California Governor Gavin Newsom issued an executive order loosening price gouging restrictions that have been active since declaring a state of emergency on March 4, 2020. Governor Newsom's new measures cover only the price gouging of emergency supplies and medical supplies, and extends eviction limitations. The executive order provides that "ordinary market mechanisms may be sufficient to ensure Californians' access to many necessary goods and services." California is among the first states to begin to loosen price gouging restrictions.

Restaurant Owner Pleads Guilty to Price Gouging in Violation of the Defense Production Act

In yet another enforcement action brought under the Defense Production Act, on March 5, 2021, the Department of Justice for the Northern District of New York announced that a pizza restaurant owner had pled guilty to hoarding and price gouging in violation of the Defense Production Act. According to Acting U.S. Attorney Antoinette Bacon, the restaurant owner "saw the pandemic as an opportunity to rip off Capital Region residents and prey upon their fears. He purchased thousands of masks from overseas and offered them for sale at highly inflated prices when masks were scarce and the pandemic had just started to take hold. This office will continue to work in coordination with the COVID-19 Hoarding and Price Gouging Task Force to prevent greedy profiteers from taking advantage of this emergency for illicit gain." The restaurant owner's sentencing hearing is scheduled for July 2, 2021, where he faces up to one year in prison, and a fine of $10,000.

Texas Attorney General Files Lawsuit Against Griddy, LLC for Price Gouging

Already hit with a class action in Texas, Griddy LLC is now being sued by Texas Attorney General for violations of the Texas Deceptive Trade Practices Act following the February freeze winter storm. During the storm, Texas power companies, including Griddy, passed on to consumers "skyrocketing energy costs," which Attorney General Paxton claims "misled Texans." According to Attorney General Paxton, Griddy "signed [Texans] up for services which, in a time of crisis, resulted in individual Texans each losing thousands of dollars. As Texans struggled to survive this winter storm, Griddy made the suffering even worse as it debited outrageous amounts each day. As the first lawsuit filed by my office to confront the outrageous failure of power companies, I will hold Griddy accountable for their escalation of this winter storm disaster. My office will not allow Texans to be deceived or exploited by unlawful behavior and deceptive business practices."

Price Gouging Tops Oregon and New York's 2020 List of Consumer Complaints

Oregon Attorney General Ellen Rosenblum and New York Attorney General Letitia James released their states' lists of top ten consumer complaints in 2020. In Oregon, the list includes for the first time a category of price gouging, with 560 incidents reported to the Department of Justice Price Gouging Hotline. Complaints of "grocery, food and beverage" ranked sixth on the top ten list. In New York, price gouging complaints ranked second on the top ten list, with 7,701 complaints regarding "COVID-19 price gouging (online brick and mortar gouging of prices for items such as hand sanitizer, masks, gloves, bathroom tissue, food)." Attorney General James' office has sent more than 1,900 cease and desist letters to merchants over the last year demanding price gouging to stop.

Washington Price Gouging Legislation Progresses to State House

On March 3, 2021, Washington's State Senate passed a bill prohibiting price gouging during a state of emergency. Advocated for by Attorney General Bob Ferguson, the bill would fine sellers that "engage in predatory price gouging" up to $25,000 per violation. The bill was drafted in response to more than 1,300 price gouging complaints since March 2020 regarding "critical necessities" such as health care services, medical supplies, rental housing, motel rooms, gasoline, emergency supplies, and covers future emergencies like wildfires, landslides, and earthquakes. Attorney General Ferguson stated that "price gouging impairs Washingtonians' access to necessary goods and services during an emergency. I appreciate the state senators who stepped up to block predatory price gouging and unconscionable price increases on emergency items. That said, it's disappointing that so many state senators wanted to allow businesses to dial up their profits on emergency goods and services on the backs of Washingtonians impacted by forest fires, pandemics and landslides." The bill now awaits approval in the House.

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