Proskauer

Price Gouging Weekly Round Up

May 17, 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 to our clients and friends.

State of Emergency Declared Following Pipeline Shut-Down

On Thursday, May 6, a ransomware attack shut down operations on the Colonial Pipeline system, which carried 100 million gallons of fuel daily. The operational disruptions had ripple effects from Texas to New York, threatening gasoline supplies across the eastern seaboard. The governors of North Carolina, Georgia, South Carolina, Florida and Virginia declared States of Emergency. State officials fear that with a limited supply of gasoline, gas stations will inflate prices. President Biden on Thursday, May 13, warned the nation to "not panic" and resist buying gasoline in bulk as to not inflate the price.

North Carolina Attorney General on Price Gouging

On May 12, in response to the Colonial Pipeline shut-down and subsequent limited gasoline supply, North Carolina Attorney General Josh Stein issued a warning about increased scrutiny on price gouging in the state. North Carolina is under a state of emergency relating to the pipeline shut-down, triggering the state's price gouging statute regarding gasoline. Stein announced, "[if] our investigation concludes that the gas station is trying to make a quick buck off of people's desperation — their cost hasn't increased — they just want to make money while the getting is good, we will sue them for price gouging." The Attorney General has brought price gouging actions against numerous sellers for a range of violations of the North Carolina price gouging statute.

Proposed Connecticut Price Gouging Legislation

The Connecticut State Legislature is currently considering amendments to the state's price gouging statute. The bill clarifies and redefines certain terms, including that "seller," encompasses entities at all levels of the distribution chain "precipitating event," and "unconscionably excessive price." The bill continues the activation of anti-price gouging laws when the Governor declares a state of emergency, but it now specifies that the statute covers a "precipitating event" before the state of emergency is declared.

Amazon Consumers Must Arbitrate Pandemic Price Gouging Claims

A California federal court granted Amazon's motion to compel consumers to arbitrate their price gouging claims against the company. Amazon pointed to an arbitration clause in its terms of service that governed how consumers must resolve any potential claims against the company. The proposed group of class action plaintiffs alleged that Amazon unlawfully increased prices on items like personal protective equipment during the COVID-19 pandemic. The complaint cited 233% increases in prices for toilet paper in violation of California's price gouging statute law that prohibits price increases of more than 10% during a state or local emergency.

Related Professionals

- **Christopher E. Ondeck**
  Partner
- **John R. Ingrassia**
  Partner
- **Kelly Landers Hawthorne**
  Associate
- **Shannon D. McGowan**
  Associate