

Increased Investigations and Enforcement Efforts Against Price Gouging

Businesses that supply essential products, including masks, disinfectants and health care products, are being faced with increased customer demand as well as supply chain constraints. While companies might have ordinarily been able to raise prices in response to market demand, excessive price increases for essential products are now at high risk of regulatory scrutiny, negative media attention and significant reputational harm.

Government officials in Canada have expressed a willingness to investigate and take action against companies that facilitate sales of goods with excessive prices (price gouging). For example, on March 28, 2020, the Ontario Government issued an [emergency order](#) that retail businesses and individuals in Ontario cannot charge unfair prices for “necessary goods” including: (i) masks and gloves; (ii) non-prescription medications for treating coronavirus symptoms; (iii) disinfecting agents, and (iv) personal hygiene products. Penalties for infringement include fines of up to C\$10 million and imprisonment for up to 1 year.¹

Outside of Canada, price gouging has also been a focus of government response. For example:

- in the US, President Trump signed an [executive order](#) on March 23, 2020 directing the US Department of Justice to prioritize investigations into those that try to profit by hoarding medical supplies. Congressman Josh Gottheimer, D-NJ further proposed the *Preventing Pandemic Profiting Act* to protect consumers from price-gouging during the COVID-19 pandemic. Individuals attempting to sell essential goods and services at an “unconscionably excessive price” face fines of up to US\$1,000 and up to five years in prison;
- in the EU, Members of the European Competition Network issued a [joint statement](#) emphasizing that EU competition authorities will take enforcement action against companies charging unreasonable prices for essential products such as hand sanitizer gel. The UK’s Competition and Markets Authority’s COVID-19 taskforce has already contacted traders and platforms regarding the excessive price of hand sanitizer;²
- the Government of New Zealand set up a price gouging hotline where consumers may report exploitative pricing. The Government also broadened the criteria for “essential services” to include heaters, whiteware and computers, citing “the need for people to safely isolate, stay connected to one another and work or study from home”; and
- in Australia, those who sell items including face masks, gloves, gowns and hand sanitiser at a mark-up of 120 per cent or more face fines of \$63,000 or up to five years in jail. The Australian Competition and Consumer Commission also warned that it will increase its focus on price gouging.

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1 Government of Ontario, Ontario Protecting Consumers from Price Gouging (March 28, 2020), available online: <https://news.ontario.ca/opo/en/2020/3/ontario-protecting-consumers-from-price-gouging.html>.

2 Competition and Markets Authority, CMA launches COVID-19 taskforce (March 20, 2020), available online: <https://www.gov.uk/government/news/cma-launches-covid-19-taskforce>.