



By Electronic Mail

March 9, 2020

The Honorable William P. Barr
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

**Re: Protecting Consumers from the Price Gouging in Response
to 2019-Novel Coronavirus**

Dear Attorney General Barr:

On behalf of the Consumer Brands Association, I write to urge the U.S. Department of Justice (DOJ) to take immediate action to combat the price gouging of consumer products in response to the global outbreak of the 2019-Novel Coronavirus (COVID-19). As the nation's leading association representing the consumer packaged goods (CPG) industry, Consumer Brands is committed to ensuring that American consumers have access to the products they depend on every day. Absent federal engagement, Consumer Brands fears that price gouging for consumer products — which has been on the rise in recent weeks — could have the severe adverse impact of preventing consumers from obtaining the preventative consumer products they need to protect themselves from the spread of COVID-19.

Public health authorities have made it clear that individuals can play a key role in stopping the spread of COVID-19 by taking preventative actions like washing their hands and cleaning the surfaces they touch.¹ These preventative actions require the use of surface and hand sanitizers, tissues, facemasks and other consumer products. While many responsible retailers have worked to ensure ongoing consumer access to these products, certain others have preyed upon this global emergency to engage in price gouging. There have been a number of reports in recent days of consumers being forced to pay exorbitant prices for basic preventative care products. For example, consumers have reported paying eight times the typical cost for disinfecting wipes, ten times the typical cost for hand sanitizer, and over twenty times the typical cost for facemasks.² Indeed, the Federal Trade Commission has warned that bad actors are likely to leverage the fear surrounding COVID-19 to defraud consumers.³

¹ See Ctrs. for Disease Control & Prevention, *Coronavirus Disease 2019 (COVID-19) Prevention & Treatment* (Feb. 15, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/about/prevention-treatment.html>.

² See e.g., Sharon Terlep, *Amazon Dogged by Price Gouging as Coronavirus Fears Grow*, WALL ST. J. (Mar. 5, 2020), <https://www.wsj.com/articles/amazon-dogged-by-price-gouging-as-coronavirus-fears-grow-11583417920>; Scottie Andre & Jessie Yang, *Masks Can't Stop The Coronavirus In The US, But Hysteria Has Led To Bulk-Buying, Price-Gouging And Serious Fear For The Future*, CNN (Mar. 2, 2020), <https://www.cnn.com/2020/02/29/health/coronavirus-mask-hysteria-us-trnd/index.html>.

³ See Colleen Tressler, *Coronavirus: Scammers Follow the Headlines*, FTC CONSUMER INFO. (Feb. 10, 2020), <https://www.consumer.ftc.gov/blog/2020/02/coronavirus-scammers-follow-headlines>.

This coerces consumers into making an unfair decision: either pay an exorbitant amount to obtain these critical products or forego purchasing them and place their health — as well as the health of their families and the general public — at risk. If price gouging continues over the coming months, more and more Americans will become unwilling and/or unable to pay excessive prices for these products. This will decrease the likelihood that individuals will take recommended and necessary preventative actions.

To avoid this strong possibility, Consumer Brands urges DOJ to collaborate with federal, state and industry partners to take all possible actions to counteract price gouging of consumer products needed to prevent the spread of COVID-19. DOJ has long used its authority to warn the public of the risk of fraudulent activity in emergency situations and to connect the public with federal and state resources to combat fraudulent activity — including price gouging — in the face of national emergencies.⁴ As COVID-19 spreads throughout the United States, and as the prevalence of price gouging increases in response to this national emergency, it is vital that DOJ notify the public that it will work with its state and local law enforcement partners to prosecute sellers who engage in this illegal activity.

Further, we urge DOJ to engage with state attorneys general to ensure that all levels of government are collaborating to combat price gouging. Multiple state attorneys general have issued public warnings regarding the illegality of price gouging during public health emergencies,⁵ and at least one is actively investigating instances of price gouging.⁶ Late last week, the state attorneys general for Pennsylvania and Texas both announced price gouging protections. But, given the rapid pace with which COVID-19 is spreading and the nationwide prevalence of price gouging, it is vital that the federal government play a role in these efforts. Accordingly, we urge DOJ to coordinate with state attorneys general to ensure a swift, effective and unified national response to price gouging.

⁴ See, e.g., Press Release, U.S. Dep't of Justice, In the Aftermath of Hurricane Dorian Department of Justice Reminds the Public to be Aware of Fraud and Report it to the National Center for Disaster Fraud (Sept. 16, 2019), <https://www.justice.gov/opa/pr/aftermath-hurricane-dorian-department-justice-reminds-public-be-aware-fraud-and-report-it>; Press Release, U.S. Dep't of Justice, In the Aftermath of Hurricane Michael Department of Justice Reminds the Public to be Aware of Fraud and Report it to the National Center for Disaster Fraud (Oct. 19, 2018), <https://www.justice.gov/opa/pr/aftermath-hurricane-michael-department-justice-reminds-public-be-aware-fraud-and-report-it>.

⁵ See e.g., Press Release, Cal. Dep't of Justice, Attorney General Becerra Issues Consumer Alert on Price Gouging Following Statewide Declaration of Emergency for Novel Coronavirus Cases in California Communities (Mar. 4, 2020), <https://www.oag.ca.gov/news/press-releases/attorney-general-becerra-issues-consumer-alert-price-gouging-following-statewide>; Press Release, W. Va. Attorney Gen., Attorney General Morrissey Ready to Enforce Price Gouging Law Amid Coronavirus State of Preparedness, <https://mailchi.mp/wvago/wva-agready-to-enforce-price-gouging-law-amid-coronavirus-state-of-preparedness?e=b243bea835>.

⁶ See Press Release, Wash. Attorney Gen., AG Ferguson Statement On Price Gouging In Public-Health Emergency (Mar. 4, 2020), <https://www.atg.wa.gov/news/news-releases/ag-ferguson-statement-price-gouging-public-health-emergency>.

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In the wake of this public health emergency, it is vital that consumers have access to the products they need to protect their own health and prevent the spread of COVID-19. By acting immediately to combat price gouging, DOJ can play an essential role in ensuring this access and advancing public health and consumer protections. On behalf of Consumer Brands, thank you for your ongoing efforts to ensure that all American consumers can obtain the products they need to protect themselves, their families and the general public.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Zumwalt', with a long horizontal flourish extending to the right.

Bryan Zumwalt
Executive Vice President,
Public Affairs
Consumer Brands Association