



Comments Received by the Department of Consumer Affairs
On Proposed Amendments to Rules Price Gouging

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PUBLIC ADVOCATE FOR THE CITY OF NEW YORK
Jumaane D. Williams

**TESTIMONY OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE DEPARTMENT OF CONSUMER AFFAIRS - PUBLIC COMMENT HEARING
JUNE 12, 2020**

Good Afternoon,

My name is Jumaane D. Williams, and I am the Public Advocate for the City of New York. Thank you to the Department of Consumer Affairs for holding this public hearing on a vital issue affecting New Yorkers.

I am grateful that the agency is taking further action on price gouging. I support the rule change that would define price gouging of “covered goods or services” as 10 percent or more above the price 30 or 60 days before the statement of emergency. It is abundantly clear that it is occurring and impacting everyone, including low-income communities and communities of more color. In March, my office, in conjunction with three borough president offices, released a report detailing evidence of price gouging in certain neighborhoods with, for instance, a disinfectant spray reported at \$19.99 and a 32-ounce bottle of rubbing alcohol at \$7.99. It is exhausting that, amid a crisis, customers must pay more than they bargained for to keep safe and healthy during a pandemic.

Therefore, I am offering three recommendations for the agency to adopt in its changes to price gouging rules. The first recommendation is increasing price gouging fines, which my office is pursuing through legislation. I welcome DCA to implement this rule to expedite the process. Amid a state of emergency, the message from the agency should be clear that no price gouging is allowed and tripling fines would ensure it is understood.

I also recommend DCA to revoke the merchant permits of repeat offenders. Constant violations suggest that merchants do not respect the law or the ongoing struggle that families face with a sudden loss of income. Even people, such as seniors, who live on a fixed income should not be exploited when they go out to shop for food, for example. Surging prices of essential items, whether it be food or medical, cannot be considered a part of doing business.

I welcome DCA’s decision to prohibit price gouging of any kind for medicine, gloves, masks, and related PPE amid potential and confirmed pandemics that will affect public health, an idea my office advocates. The Governor announced the requirement of mask use in public wherever social distancing is not possible, and we cannot have people go to stores buying overpriced



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masks or other related health products to comply with this policy. We do not know how long this requirement will go on. In fact, there is the possibility mask use will be ingrained in our culture, making it more important to ensure there is no price gouging on these products.

Let me emphasize that we cannot lay blame solely on stores with inflated prices. The margins for retailers is tight, and the demand for health products was not predicted. Wholesalers used this opportunity for profit regardless of the consequences. For example, Quality King Distributors was caught by the New York State Attorney General Letitia James' office for price gouging its products sold to stores, including more than 60 in Queens. Larger wholesalers, like Amazon and eBay, are also guilty of inflated prices as my office documented in our price gouging report.

It is important to keep the role of a wholesaler in mind as price gouging on products reflects the relationship between stores and wholesalers. Back in March, there was a news report of dollar stores in Queens that faced a choice of selling goods with inflated prices or opting not to stock them at all. We need a clear response to ensure the entities that are actively inflating prices are the same ones that will receive stiff penalties, and I am glad the DCA recognizes this in its proposed rule changes.

Price gouging may happen over the next few months, and we must be prepared to have rules in place that are proactive in reducing the effects and stopping it. This is especially true if fears of a second wave occur. We cannot forget that there were over 4,000 complaints submitted to the agency in just over three weeks back in March. This underscores the severity of price gouging in our City.

I urge DCA to take my recommendations into consideration when finalizing its rules on price gouging. I agree with language noting that price gouging is unconscionable. I suggest officials at DCA review the report published by my Office back in late March. Implementing the ideas I have proposed today and in my price gouging report are useful in ensuring this practice does not become common place now, after the crisis, or in future crises. Thank you.

Good Afternoon, my name is William Jorgenson and I am speaking on behalf of Melinda Katz, the District Attorney for Queens County. In recent months, the havoc that COVID 19 has wrought on the people of Queens has been all too obvious. Families are shut in without any idea of when, if ever, they will be allowed to resume their former lives. Businesses have been shuttered and hard working families, often already living on limited means, have been pushed to the point of financial ruin. Add to this the quite understandable outrage of communities of color, and the rest of us who stand with them, over the recent incidents of police brutality in Minnesota and elsewhere, and it is easy to despair. One could easily ask, what can the City Government do to address people's fears?

One item on the agenda today, which I believe can really make a difference in dealing with the recent spate of profiteering by a tiny minority of the City's business community, is passing the NYC Department of Consumer and Worker Protection (DCWP) proposed price gouging regulation into a permanent rule.

During this pandemic, unscrupulous merchants have taken advantage of people's inability to fairly bargain by inflating the price of necessary supplies such as hand sanitizer, face masks, and disinfectants. Not only does this endanger hard working New Yorkers by making it impossible for some to pay for the overpriced essential goods, but it makes it even harder for other merchants who do play by the rules, since they are already struggling to stay in business.

The DCWP took the bold and necessary step to outlaw this behavior when it promulgated the emergency rule under the Rules of the City of New York, which made price gouging of essential goods and services that are necessary to treat, diagnose and prevent the spread of COVID-19 illegal. Since then, numerous merchants who have taken advantage of their customers' desperation in the face of this pandemic have been held accountable. Many of these cases were dealt with quickly and effectively by investigators from the DCWP, and they have been doing a great job in investigating consumer complaints and issuing violations for those offenders. However, in a few instances, it has become necessary for my office step in.

In one case, a merchant was summoned for raising the price of all COVID related items by a minimum of 50%. Even more outrageous, another merchant had the temerity to sell 1,000 R-95 face masks, the same masks so desperately needed by our front line health workers, for ten times their regular price. Each of these individuals have been charged with violations of the NYC Administrative Code, and received desk appearance tickets, and they will have to address these charges in court in the coming weeks. In order to ensure that this behavior will not be tolerated by the people of this city, I urge the Council to adopt this rule to permanently outlaw price gouging in New York City.

My office agrees with the DCWP that price gouging should continue to be illegal and that this permanent rule should be passed. It needs, however, to go further than that. Unscrupulous merchants are willing to accept the risk of being caught price gouging when they know the only penalty is a violation and a nominal fine. I propose we join other states around the country and codify price gouging into our penal law, so that we can go after those merchants who are willing to write off the risk of being caught price gouging as a "cost of doing business". By making price

gouging a misdemeanor, wrongdoers would be exposed to more than the inconvenience of a fine. It would expose them to jail time, and a criminal record, which I believe would make them think twice before trying to rip off New Yorkers during a state of emergency. We understand the need of those running legitimate businesses to make a profit, and we stand with you. However, when there is a declared state of emergency in New York City, and certain merchants choose to use that emergency to line their own pockets by taking advantage of New Yorkers' inability to bargain shop certain goods and services, we say this is unacceptable and we will hold you accountable. Let's make price gouging a crime.