

United States Senate

WASHINGTON, DC 20510

March 27, 2020

The Honorable Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Ave NW
Washington, DC 20580

Dear Chairman Simons:

We call on the Federal Trade Commission (FTC) to use the full extent of its authority to prevent abusive price gouging on consumer health products that members of the public need to protect themselves and their loved ones from the spread of the coronavirus (COVID-19).

We are in the midst of a global health care crisis. The latest reports indicate that more than 85,000 people across our country have tested positive for coronavirus – a number that is likely far short of the actual total in light of deeply troubling limitations on testing – and at least 1,271 patients with the virus have died.¹ And in the near term, these numbers are only expected to rise.

Serious and justified public concern about the growing pandemic has drastically increased demand for consumer health products that can help stem the spread of COVID-19. Everyday products, like hand sanitizer, facemasks, soap, and even household disinfectants such as Lysol and Clorox, have been emptied from store and warehouse shelves by consumers trying to protect themselves and their families from the virus. Many consumers have turned to e-commerce sites only to find similar shortages.

But just as times of crisis can bring out the best in people, they can also bring out the worst. And that is what we have been seeing in numerous reports of unscrupulous vendors taking advantage of this national emergency by charging wildly inflated prices for once-affordable consumer products. Such price gouging does not just enrich sellers at the expense of desperate consumers, it may prevent low income consumers from obtaining these products altogether. Some e-commerce businesses have undertaken efforts to prevent price gouging by third-party vendors on their websites, but such efforts are insufficient to address the broader problem. Several states have enacted measures to address price gouging, and some of them have already taken action. But this is a national problem that requires a solution that protects all Americans, not just those lucky enough to live in a state with protections against price gouging.

The FTC, as our nation's top consumer protection enforcer, must do everything in its power to address price gouging for consumer health products during this national emergency. Although there is no federal law outlawing price gouging, as a general matter, the Federal Trade Commission Act (FTC Act) grants the FTC the power to prevent "unfair or deceptive acts or practices." Charging outrageously inflated prices for everyday consumer health products in the middle of a global pandemic certainly fits that description. And make no mistake, the price

¹ Mitch Smith et al, "Coronavirus in the U.S.: Latest Map and Case Count," N.Y. TIMES, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (last accessed Mar. 27, 2020, 9:20 AM).

gouging we are seeing has nothing to do with “supply-and-demand” or “price discovery” – it has everything to do with squeezing every last cent out of consumers in a time of desperate need.

Under normal circumstances, the FTC has been reticent to employ the full extent of its authority under Section 5 of the FTC Act. But these are not normal circumstances. If ever there was a time to explore the limits of the FTC’s consumer protection authority, that time has come. The FTC must take urgent action to address these abuses. We stand ready to assist the Commission in its efforts, and if the agency would benefit from additional authority to address this harmful conduct, we would be happy to consult with you and your fellow Commissioners on appropriate legislation.

Thank you for your immediate attention to this matter.

Sincerely,



Amy Klobuchar
United States Senator



Doug Jones
United States Senator



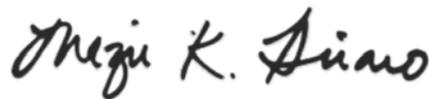
Sherrod Brown
United States Senator

/s/Chris Van Hollen

Chris Van Hollen
United States Senator



Richard Blumenthal
United States Senator



Mazie Hirono
United States Senator



Catherine Cortez Masto
United States Senator



Benjamin L. Cardin
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Dianne Feinstein
United States Senator



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Kamala D. Harris
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Tina Smith
United States Senator



Tammy Duckworth
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Elizabeth Warren
United States Senator



Jacky Rosen
United States Senator



Tom Udall
United States Senator