Understanding New York's New Price-Gouging Rules: Implications for Businesses and Compliance Requirements

On Jan. 28, 2026, the New York Attorney General finalized six rules and issued one new proposed rule to address excessive price increases during emergencies. New York's price- gouging law, General Business Law § 396 r, prohibits selling essential goods or services at "unconscionably excessive" prices during an "abnormal disruption of the market," including under circumstances such as extreme weather, natural disasters, power outages or a declared state of emergency. After widespread pricing concerns arose during the COVID-19 pandemic, the Attorney General initiated a rulemaking effort to clarify standards, provide clearer definitions and strengthen enforcement. This new framework aims to protect consumers while ensuring that businesses maintain consistent pricing practices and proper documentation.

Key Takeaways and Provisions

Unfair Leverage

Prior to the implementation of these new rules, the standards used to determine whether a price increase constituted a violation of New York's price-gouging law were somewhat ambiguous. Factors analyzed in making this determination include whether the excess amount is unconscionably extreme, whether the increase was a result of exercising unfair leverage or unconscionable means, or whether the price spike was achieved by a combination of both.

The new rules set forth examples of conduct that qualifies as an exercise of unfair leverage or unconscionable means. During a period of abnormal market disruption, businesses are prohibited from:

- Engaging in deceptive acts or practices that misrepresent or obscure the total price of essential products;
- Conditioning the sale of essential products on a customer's agreement to excessively burdensome payment terms;
- Refusing to honor previously agreed upon contracted-for prices;
- Engaging in high pressure sales tactics, including but not limited to acts of undue influence, physical confinement or the use or threats of violence; and
- Unfairly leveraging their market position (i.e., exploiting consumers' lack of available alternatives).

Businesses with substantial market power are under heightened scrutiny. The new rules create a presumption that any seller with a relevant market share greater than 30% for an essential product has violated the price-gouging law if they increase their prices by *any* amount during a market disruption, regardless of how minimal. However, this presumption can be rebutted with evidence that the profit made per sale remained the same both pre and post market disruption, or that the seller faced increased costs outside of their control.

10% Price Increase Rule

Under New York law, prima facie proof of a price-gouging violation includes either: (1) a gross disparity between the price of essential goods sold during an abnormal market disruption and the price of the same goods sold prior to the disruption, or (2) the price of essential goods grossly exceeds the price that the same or similar goods could be obtained elsewhere. The new rules create a presumption that any price increase over 10% during an abnormal disruption constitutes a "gross disparity" under the first prong and may support an enforcement action.

New Essential Products

The new rules extend price-gouging protections to newly created goods and services that emerge after a disruption begins (e.g., COVID-19 test kits), preventing businesses from exploiting the absence of historic pricing data. The price of a new essential product cannot be more than 10% greater than the predisruption price of a comparable product in the area, or a price-gouging violation is presumed.

Legitimate Costs Defense

When defending against a price-gouging claim, businesses may cite increased costs as an affirmative defense. The new rules clarify which costs qualify as legitimate bases for price increases, including production, labor, storage and distribution expenses. This affirmative defense is available for all affected businesses, including those with substantial market power.

Newly Proposed Rule

Alongside the six finalized rules, the Attorney General released a new proposed rule addressing weather-related market disruptions. If adopted, this proposed rule would establish specific examples detailing when weather conditions trigger an abnormal market disruption, serving to clarify standards for price increases related to storms, extreme temperatures and other similar weather-related emergencies. Businesses distributing essential goods must maintain thorough documentation to justify significant price increases during these periods. Without legitimate cost-based evidence to support price hikes, businesses may face enforcement action(s).

Impact on Businesses and Compliance Recommendations

While the new price-gouging rules provide greater clarity, they also expand liability – particularly for businesses with significant market power, businesses selling essential goods and businesses operating in emergency-related sectors. Maintaining routine internal documentation processes is more important for affected businesses now than ever before. Businesses can mitigate their potential liability by endeavoring to do the following:

- Review pricing policies and update compliance programs.
- Align pricing with the 10% increase threshold to avoid enforcement action(s).
- Maintain detailed and contemporaneous documentation of all price changes and cost increases. Poorly documented cost factors may invalidate your business's affirmative defense(s) if faced with a price-gouging enforcement action. Businesses with substantial market power face heightened scrutiny to prove that price increases are not attempts to exploit emergency conditions for excess profit.
- Preserve audit-ready records relating to prices and costs for at least several years.
- When pricing a new product that launches during or after an emergency, set prices according to a trusted formula that is supported by documented evidence.
- Monitor emergencies and potential emergencies to ensure readiness and compliance during periods of market disruption.

Bond, Schoeneck & King provides a full range of legal services for businesses across all sectors. Our team is available to assist with compliance reviews, risk assessments and development of internal policies tailored to these new price-gouging rules and regulations. Bond's Government and Regulatory Affairs practice is well suited to offer related support – please contact practice leaders Roger Bearden and Gabriel S. Oberfield to learn more. If you have any questions about this update, please contact Courtney Ryan or any Bond attorney with whom you work regularly.

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