

WHAT DO YOU NEED TO KNOW ABOUT PRICE GOUGING AS A CONSUMER?

The Minister of Trade and Industry, Ebrahim Patel published 'price gouging' regulations on 19 March 2020 after the declaration of a national disaster in South Africa due to the COVID-19 pandemic.

The regulations were published to protect consumers against inappropriate commercial practices, such as excessive pricing during the national disaster.

What is 'price gouging'?

Price gouging happens when a seller increases their prices to charge excessive prices and sell goods or services significantly above their usual price. This normally happens because of increased demand, normally as a result of a national disaster.

For example, many businesses have taken advantage of the spread of the Coronavirus outbreak in South Africa by hiking prices of food products and personal protective equipment such as masks and hand sanitizers.

What is a significant price increase?

A price increase will be considered material if it:

- Does not correspond to the cost of procuring or producing the good, or
- The increase is above the average margin or mark-up from December 2019 because the benchmark is the margin that existed three months prior to the COVID-19 outbreak

Which goods and services are regulated?

Annexure A & B of the regulations provide the following list of essential goods and services:



Medical and hygiene products



Basic food and consumer items



Emergency products and service



Emergency clean-up products

1. **Basic food and consumer items:** typically storable dry goods for periods of isolation such as maize meal, rice, canned food, frozen food, flour etc.
2. **Emergency products and service:** goods that are urgently needed in times of crisis such as water, flashlights, radios, batteries, candles, blankets, paraffin and LPG, etc.
3. **Medical and hygiene products:** products used to maintain hygiene to preserve health and prevent the spread of disease, such as hand sanitizer, face masks, sterile gloves, isopropyl alcohol, medication-related to COVID-19 such as immune boosters, etc
4. **Emergency clean-up products:** products used for the clean-up of infectious or other hazardous waste and may include personal protective equipment, disinfectants, refuse bags, absorbent materials, solvents, etc.

The following products have been specifically identified in the regulations:

- Toilet paper
- Hand sanitiser
- Facial masks
- Disinfectant cleaners
- Surgical gloves
- Surgical masks
- Disinfectant wipes
- Antiseptic liquids
- All-purpose cleaners
- Baby formula
- Disposable nappies
- Bleach
- Cooking oils
- Wheat flour
- Rice
- Maize Meal
- Pasta
- Sugar
- Long-life milk
- Bottled water
- Canned and frozen vegetables
- Canned, frozen and fresh meat, chicken or fish
- Private medical services relating to the testing, prevention and treatment of COVID 19 and its associated diseases.

What to do should you suspect price gouging?

If you suspect a retailer or supplier is engaged in price gouging please contact the Competition Commission immediately and provide us with the following information:

- a. The name and location of the store/vendor where you purchased the item and their address.
- b. Details about the product, including, but not limited to, the product type, brand, size, and price.
- c. Receipts, invoices, quotations or pictures showing the price.

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What happens after you lodge a complaint with the Competition Commission?

The Commission will collect all relevant information to investigate potential contraventions of the regulations.

After investigating, the Commission will either:

- a. Refer the matter to the Competition Tribunal for prosecution and adjudication;
- b. Enter into a consent agreement or undertaking with the parties; or
- c. Non-refer the matter.

Penalties

Firms that are found to have contravened the regulations could face:

- A fine up to R1 000 000
- A fine of up to 10% of their turnover, and
- Imprisonment for up to 12 months.



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