

Coronavirus Advertising-Related Enforcement is Ongoing

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This post updates an [earlier post](#) relating to marketing around the coronavirus.

We noted a couple news items this week that help add context to the pervasiveness of and risks related to price gouging enforcement. In [this story](#), the New York Times reported on a merchant who was selling hand sanitizer and related protective gear on Amazon, at profit levels that corresponded with the growing public concern. Amazon removed his listing along with hundreds of thousands of others and suspended thousands of sellers' accounts for price gouging. He's now left with 17,700 bottles of hand sanitizer.

The California, Washington, and New York attorneys general offices are investigating price gouging complaints. The New York AG issued multiple [cease and desist letters](#) last week relating to exorbitant prices on hand sanitizer and disinfectant spray. The California AG issued a [consumer alert](#) regarding price gouging following announcement of a state of emergency. The Washington AG issued a similar [alert](#) calling on consumers to report price gouging and scam products.

On the advertising claims front, the New York AG [announced](#) enforcement against Alex Jones, who operates the InfoWars website. The



AG alleged that Jones was marketing and selling toothpaste, dietary supplements, and creams as treatments to prevent and cure the coronavirus. The NY AG also issued cease and desist letters to [Dr. Sherill Sellman](#), who was selling colloidal silver as a coronavirus cure, and to disgraced televangelist, [Jim Bakker](#), for featuring claims that Sellman's colloidal silver product could "eliminate [coronavirus] within 12 hours." The State of Missouri has also brought [enforcement action](#) against Mr. Bakker.

So, what's the lesson? In our [prior coronavirus marketing post](#), the lessons were to know and understand the pricing laws and to avoid overstating the benefits of any product. The follow-on issue is one of ethics and brand management: We're in a public health crisis. Brands and platforms that demonstrate that they are working to comply with the law and take proactive consumer protection measures may forego short term profits, but they stand to gain long term consumer trust and maybe

even generate some goodwill with regulators.

In addition to retail platforms, advertising and social media platforms may want to take note. CDA Section 230 is alive and well but does any platform want to go to bat for advertising allegedly scam products? The Washington AGs office stated that they will use their consumer protection laws to sue platforms or sellers even if they aren't in Washington, as long as they were trying to sell to Washington residents. Every other state AG undoubtedly agrees with this approach.

And finally for some comic relief...for some insightful advice from John Oliver, check out [this link](#) at the 17-minute mark.

Join us for our next webinar, covering influencer issues, on March 24 [by signing up here](#).

