

NAAG Consumer Protection Meeting: State Attorneys General 2022 Year in Review

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Earlier this month at the 2022 NAAG Consumer Protection Fall Conference panelists including current and former AG personnel discussed recent consumer protection legislation and rulemakings that have been implemented or proposed, as well as recent court actions affecting consumer protection laws to provide AGs and staff a year in review.

In the wake of the Supreme Court's unanimous decision in *AMG*, which held the FTC could not obtain monetary redress under Section 13(b) of the FTC Act, the agency has since been exploring new ways to expand its civil penalty and restitution authority. Efforts in Congress to amend the law have so far failed. Given the cumbersome process to proceed administratively, the panel touched on the FTC's issued rulemakings mostly brought under its Mag-Moss authority, including proposed changes to endorsement guides and an ANPR on [junk fees](#), impersonation fraud, and [earning claims](#). The panel also noted that it remains to be seen whether, as the FTC [had previously committed](#), we will see more state partnerships with the FTC in combined enforcement efforts.

With emergencies ebbing and flowing this year, price gouging continued to be a focus for the states this year. New York announced a rulemaking on price gouging. Some constituents fear that New York will broaden the definition of "excessive" price, while others have noted appreciation for further clarification of the undefined standard. Like most price gouging laws, New York's law was originally designed to address life or death emergency situations creating an irregular marketplace. Two cases will be interesting to watch as they unfold because they will give greater clarity on outer bounds of state price gouging laws. *Texas v. Cal-Maine Foods Inc.* and *NY v Quality King* [were](#) brought early in the pandemic against non-consumer-facing companies. Allegations involved pandemic-related price gouging that was trickling down to consumers. Both cases were initially thrown out on a motion to dismiss. But, over the summer, both cases went up on appeal and were overturned and remanded back to the trial court.

Similarly, states have increasingly turned their attention to automatic renewal legislation. Panelists noted that Washington announced study results on recurring charges and [signaled their interest](#) in enforcement efforts in that area. Panelists partly attributed this shift to how subscription services are playing a more prevalent role in this different economy, and others noted the similarities between these issues and [so-called dark patterns](#).

While states realize the need to legislate for consumer protection, there is also a need to create a regulatory clarity for businesses that want to operate in this space. We will continue to provide updates as these conversations continue among State AGs.

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