

# Read This Before You Market Around Coronavirus

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Until recently, most consumers likely associated anything starting with “Corona” with a sunny beach and a lime wedge.

Not anymore.

The public is rightly concerned about coronavirus and how to avoid catching it. And where the public has questions, marketers will have answers. Here are a couple things to think about before rushing that next campaign out the door.

## **State and Local Laws Prohibit Price Gouging**

As hand sanitizer has become scarce, some who have it have sought to capitalize on consumer demand and no small amount of fear. We noticed [this story](#) about Amazon cracking down on third-party merchants selling coronavirus products at inflated prices.

Many states have laws governing price gouging. New York’s law prohibits merchants from taking unfair advantage of consumers by selling goods or services that are “vital to the health, safety or welfare of consumers” for an “unconscionably excessive price” during an abnormal disruption of the market place or state of emergency.

New York's price gouging law does not specifically define what constitutes an “unconscionably excessive price.” However, per the NY [AG](#), the statute provides that a price may be “unconscionably excessive” if: the amount charged represents a “gross disparity” from the price such goods or services were sold or offered for sale immediately prior to the onset of the abnormal disruption of the market. Merchants may provide evidence that justifies their higher prices were justified by increased costs beyond their control.

California’s law is more prescriptive. California’s anti-price gouging statute, Penal Code Section 396, prohibits raising the price of many consumer goods and services by more than 10% after an emergency has been declared. There may also be local laws that prohibit price gouging.

State attorneys general and CA district attorneys have reported receiving price gouging complaints. Companies that fail to comply will risk being enforcement targets.

## **Be Careful Not To Oversell**

The FTC and FDA issued [warning letters](#) to seven companies allegedly selling unapproved products that may violate federal law by making deceptive or scientifically unsupported claims about their ability to treat coronavirus. Both agencies issued statements indicating that they are prepared to take further enforcement action to prevent the public from being misled.

An equally concerning scenario is the marketer who sees an opportunity to market around coronavirus with a product that has value but not to the degree that it would be an effective prevention tool. For example, dust masks are not the same as N95 face masks. Hand wipes without alcohol will not kill the same germs as those with alcohol. Tito's Handmade Vodka is [not hand sanitizer](#). It would be potentially misleading and deceptive to market dust masks, hand wipes without an effective sanitizer, or even Tito's Handmade Vodka hand sanitizer as effective coronavirus prevention tools. It's also a waste of good vodka. But, we digress.

The lesson is this: The rush to meet consumer demand should not overcome the legal clearance process or common sense. Rules still apply even in - and maybe especially in - times of public health emergency.

Stay tuned. We'll update this post as the situation evolves.

