

AGs on the Front Line of the COVID-19 Consumer Protection Fight

The United States has not had to combat a pandemic like COVID-19 for nearly a century; unfortunately, it seems that it will be our reality for months to come. Even as government and private sector health experts fight to keep citizens from becoming victims of the disease, Attorneys General (AGs) are manning the front line in keeping consumers from becoming victims of scams, abuse, or fraud using the powers they have wielded for decades across a wide range of industries to combat deceptive and misleading claims and unfair business practices.

UDAP Laws Empower State AGs with Broad Discretion

Like other public crises impacting large numbers of people — hurricanes, wildfires, flooding, and other natural and man-made disasters — pandemics provide opportunities for the best of human nature and also the worst. Hucksters pedal fake, ineffectual remedies that not only cheat vulnerable buyers out of their money, but create a false sense of safety undermining containment efforts and may even cause outright harm. Price-gougers extort frightened consumers when supplies are scarce. Conspiracy theorists and quacks spread disinformation about all aspects of the crisis.

Fortunately, challenging such misconduct is squarely in AGs' wheelhouses. AGs are highly influential actors across a wide variety of important public policy topics by virtue of their role as the chief consumer advocates and law enforcement officers of their respective states. Much of their authority comes from sweeping unfair and deceptive acts and practices (UDAP) laws. Every state has its own UDAP law that, while varying across the country, generally empowers that state's AG with broad discretion over consumer protection actions. These laws allow AGs to investigate and undertake enforcement actions regarding business claims and practices that are misleading, deceptive, fraudulent, or that unconscionably take advantage of their constituents. In recent years, AGs have multiplied the impact of these UDAP laws — as well as specific statutes such as those prohibiting price-gouging, false advertising, data breaches, and abuses of consumer privacy — by increasingly pooling resources and expertise to conduct coordinated, multistate investigations and litigation. They have become preeminent national regulators in their own right on consumer protection, data privacy, and other issues.

Price-gougers, Scammers, in AGs' Crosshairs

All of these trends have been on display in AGs' reactions to COVID-19 as AGs use their high public profiles to communicate essential information through the press and social media. Their actions are reducing disinformation and panic and enabling public health officials to do their jobs more effectively.

When Washington had the unfortunate distinction of being the first state with a significant cluster of COVID-19 cases, Washington AG Bob Ferguson *took to the airways* to educate consumers on how to find truthful information, on how to report scams and fraud, and on his office's efforts to combat price gouging for health-related products. Maryland AG Brian Frosh and Virginia AG Mark Herring *warned consumers* of phishing emails from scammers trying to steal personal information by posing as personnel from the Centers for Disease Control and Prevention or World Health Organization. New York AG Letitia James and Missouri AG Eric Schmitt took action against a formerly disgraced televangelist, asserting that his promotion of an unproven treatment that claimed to "eliminate coronavirus" violates consumer protection laws. AGs across the country, on both sides of the aisle, have warned businesses in their states of the array of laws prohibiting price gouging during emergencies. The National Association of Attorneys General (NAAG) is also *closely monitoring* COVID-19, and has made its NAAG Disaster Preparedness Manual available to assist AGs through this unprecedented and fast-evolving emergency.



Christopher Allen

Member

callen@cozen.com
Phone: (202) 471-3421
Fax: (202) 861-1905

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Through their expansive authority over consumer protection issues and the power to obtain injunctive relief to halt unlawful business practices, along with teams of dedicated and skilled investigators and staff attorneys, prominent public profiles, and an influential bully-pulpit, AGs may be among the best equipped government officials to take quick action to protect consumers and public safety as the country comes to grips with the COVID-19 pandemic. They will continue to do so as this crisis unfolds and presents ever-inventive, unscrupulous actors with opportunities to conjure up new schemes. AGs' authority and efforts to combat such practices come as no surprise to those who know and work with them on a regular basis, and their ongoing responses will be an area to watch as the battle against COVID-19 rages on.
