

Consumer Protection Division

Grossly Excessive Prices ("Price Gouging") Guidance

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CPD GUIDANCE – GROSSLY EXCESSIVE PRICES (“Price Gouging”)

Application

This guidance applies to Saskatchewan consumer contracts and/or purchases involving personal, family or household goods or services as defined in *The Consumer Protection and Business Practices Act (CPBPA)*.

Prohibited Practices

The *CPBPA* prohibits the commission of unfair practices such as taking advantage of consumers who are unable to protect their own interests. Suppliers who commit such practices can be prosecuted and, if found guilty, may be fined or be subject to jail terms.

A “supplier” includes anyone offering for sale, to consumers, personal necessities, including those that do so in a volume that would be more than what one would reasonably be expected to use for their own personal consumption and applies even if there is no retail store.

Grossly Excessive Prices (“Price Gouging”)

Suppliers are allowed to respond to market forces of supply and demand and, if they so choose, can reasonably raise prices. They can also reasonably raise prices to cover their costs of acquiring inventory. A price increase as a result of normal marketplace forces is not ordinarily regulated.

Conversely, suppliers who impose grossly excessive prices, especially during periods of crisis or emergency, on consumer goods and services necessary for sustenance or survival for which there is no reasonable explanation take advantage of consumers who are unable to protect their own interests and may be found guilty of committing a prohibited or unfair practice.

Grossly excessive prices are not defined, however, a reasonable third party should be able to quickly identify whether a given price increase is grossly excessive. For example, in the absence of a reasonable explanation and/or alternative purchasing options, a reasonable person would likely view a 100% or more price increase on personal necessities, when imposed during a pandemic, to be grossly excessive.

Reasonable price increases that are the result of normal market forces are legal; but grossly excessive prices on personal necessities imposed during the current Covid-19 pandemic event may be illegal in that they may amount to an unfair practice contrary to the *CPBPA*. If an unfair practice is found to have been committed, the Director may order the supplier to stop committing the unfair practice and comply with the *CPBPA*. Compliance may be achieved by, amongst other ways, reducing or rolling back prices or ceasing to sell the item altogether.

Consumer Tips and Complaints

If left unchecked, unfair practices can lead to seriously disruptive marketplace conditions and consumer harm. Since we can all assist to make the marketplace fair and equitable, consumers who know of, or observe grossly excessive prices either in advertisements or before, during or after a transaction, are encouraged to do one or more of the following:

1. Call our tip hotline at 1-877-880-5550 to provide information.
2. File a tip [here](#) – to report suppliers that you observed charging grossly excessive prices during the pandemic period. Note that an information tip does not necessarily mean we can or will investigate or contact you for more details or updates. It is, however, a valuable starting point for us to start identifying certain marketplace behavior.

While you may not have all pertinent information, the more details you can provide, the greater it will be of assistance.

3. File a more formal complaint [here](#) regarding a personal excessive pricing transaction.

Keep receipts, contracts, and/or advertisements as your information must be accompanied with clear evidence showing that grossly excessive prices are being or have been charged during the period of crisis or emergency.

4. Register an on-line complaint with the [Better Business Bureau](#) (BBB).
5. If possible, register a complaint with the supplier. If the supplier does not respond to the complaint or if the response is unacceptable, include a summary of the supplier's response when discussing with the Consumer Protection Division.

Consumer Protection Division (CPD) Response

An information tip does not necessarily mean we can or will contact you for more details or updates. It is, however, a valuable starting point for us to start identifying and reacting to certain marketplace behaviour. If you filed a formal complaint, you will be contacted.

The Division may need to prioritize investigative resources based on its assessment of the level of harm to consumers. Higher priority will be given to those investigations involving grossly excessive prices in consumer transactions:

- imposed by suppliers in sectors cited in the critical and allowable business services [list](#);
- that are occurring or have occurred during the on-going pandemic period;
- involving personal living necessities*; and
- where there is little or no other reasonable and readily accessible alternate purchasing options.

*Personal necessities include items such as: disinfecting agents for cleaning and disinfecting objects or humans, personal hygiene products, including soap and soap products; non-prescription medications for

the treatment of the symptoms of a disease or virus; masks or gloves used for personal protective equipment in relation to infections in quantities used by individuals, families or households; and common or staple food items.

These should be understood to be for purposes of personal household or family uses and not for business to business transactions

If the allegation is sufficiently supported by evidence, the supplier alleged to have engaged in grossly excessive pricing will be contacted by an investigator and be given an opportunity to respond to the concern including by providing evidence as to why the price increase is reasonable.

If, after reviewing all the evidence gathered, the Director of the Consumer Protection Division concludes that the evidence supports on a balance of probabilities that an unfair practice is occurring, is about to occur, or has occurred, the Director will notify the supplier and give the supplier an opportunity to comply or stop selling the goods or services. Immediate action is expected of the supplier in this circumstance.

Supplier Considerations

It is certainly possible that suppliers will have legitimate reasons for the increased prices. These could include: increased supply chain costs; increases to delivery or inventory stocking; higher wage cost due to staffing shortages; or increased costs related to health and safety concerns. Each circumstance will vary. If a legitimate explanation is provided and is supported by evidence, such will be considered before any decision is made.

Remedies

Suppliers found to have committed an unfair practice will be required to cease committing the unfair practice and comply with the *CPBPA*. Immediate compliance is expected of suppliers when they are notified of the Director's decision that they are committing an unfair practice. Any decision can be appealed by the supplier.

The Director may also:

- issue an order, that will be made public, requiring the supplier to cease committing the unfair practice and comply with the *CPBPA*;
- issue a costs order requiring the supplier to pay the costs of the proceedings, including the investigation costs;
- seek additional relief by way of an application to the Court of Queen's Bench; and/or
- recommend that the supplier be prosecuted and fined.

Under the *CPBPA*, the following penalties can be applied by the Courts if prosecuted and convicted:

If the supplier is an individual, that supplier is subject to:

(a) for a first offence, a fine of not more than \$5,000, and imprisonment for a term of not more than one year or both; and

(b) for a second or subsequent offence, a fine of not more than \$10,000, and imprisonment for a term of not more than one year or both.

If the supplier is a corporation, that supplier is subject to:

- (a) for a first offence, a fine of not more than \$100,000; and
- (b) for a second or subsequent offence, a fine of not more than \$500,000.

For corporations, every director, officer, or agent of the corporation who directed, authorized, assented to or acquiesced in or participated in the unfair practice committed by the corporation may also be prosecuted for the unfair practice and will be subject to the individual supplier penalties noted above.

If a supplier is convicted, the Crown Prosecutor can also request that the Court order that any monetary benefits that were acquired or accrued to the supplier as a result of the unfair practice be imposed as an additional fine amount or that compensation or restitution be paid to the consumer.

Suppliers that are convicted can also be ordered by the Courts to pay the cost of any enforcement action including:

- a) costs incurred with respect to services provided by a person engaged, appointed or retained by the Director for the purposes of the proceeding;
- b) costs of obtaining a warrant;
- c) costs of matters preliminary to the proceeding;
- d) costs for time spent by the director, by any person employed in the administration of this Act or the regulations or by any person engaged, appointed or retained by the director;
- e) fees paid to a witness; and
- f) costs of legal services provided to the Director.

Small Claims Court

A consumer who has suffered a loss as a result of a contravention of the CPBPA may choose to commence an action in the Provincial Court of Saskatchewan, but only if the action or relief sought is within the jurisdiction of that court pursuant to *The Small Claims Act, 1997*, and only if the Director has not applied to the court on the consumer's behalf.

Contact Us

You can call us toll free at 1-877-880-5550 or email us at consumerprotection@gov.sk.ca.