

Government and Antitrust Authority Actions Related to the COVID-19 Crisis

The COVID-19 pandemic is causing severe business and commercial disruptions, affecting all sectors. Governments and antitrust authorities have been faced with the challenging task of helping businesses tackle the crisis, while making sure companies do not take advantage of the situation by engaging in anticompetitive conduct. The following tables provide an overview of the actions taken to date by national governments and antitrust authorities in response to the pandemic.

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Table 1 – Examples of Government Intervention

Jurisdiction	Sector	Measures
Argentina	Food, retail, healthcare (PPE)	<ul style="list-style-type: none"> Imposed restrictions on price gouging for personal protective equipment (PPE) such as masks and hand sanitizers President entrusted mayors and governors with powers to intervene against supermarkets and other retailers for increasing their prices during the pandemic
Brazil	Multiple sectors	<ul style="list-style-type: none"> Brazilian Senate approved a bill exempting joint ventures, consortia and associative agreements from prior approval of the competition authority if necessary to combat COVID-19 and exempting certain anticompetitive practices, such as predatory pricing, from antitrust scrutiny, until October 31, 2020
European Union	Streaming services	<ul style="list-style-type: none"> Streaming platforms were asked to limit their services and offer only standard definition rather than high-definition programs
France	Healthcare (PPE)	<ul style="list-style-type: none"> Requisitioning of stocks and production of face masks in France Regulation of prices of masks and gels

Jurisdiction	Sector	Measures
Germany	Food, retail, multiple sectors	<ul style="list-style-type: none"> • Contacts with the Federal Cartel Office on the possibility of allowing certain information exchanges and cooperation • New draft law allowing temporary exemption from payment of interests on antitrust fines
Italy	Healthcare (PPE)	<ul style="list-style-type: none"> • Regulation of prices for face masks
New Zealand	Multiple sectors	<ul style="list-style-type: none"> • Competition authority to consider softening enforcement activities to allow cooperation between businesses
Norway	Transport	<ul style="list-style-type: none"> • Temporary three-month exemption from the Competition Act's prohibition on cooperation • Norwegian airlines can collaborate on their flight offerings, but collaboration activities have to be notified to the competition authority
Philippines	Basic commodities	<ul style="list-style-type: none"> • Department of Agriculture launched a task force to monitor prices of basic commodities • Prices of basic commodities sold on traditional and online markets frozen for 60 days
Singapore	Healthcare (PPE)	<ul style="list-style-type: none"> • Letter of demand sent by the Price Controller, an independent officer appointed by the Ministry of Trade and Industry with inspection and regulatory powers, in relation to prices of goods sold in Singapore and requiring sellers of surgical masks and e-commerce platforms to submit explanations and documentation regarding the basis of their selling prices
Slovenia	Healthcare (PPE)	<ul style="list-style-type: none"> • Regulation setting out maximum retail prices for face masks, hand sanitizers and other PPE
South Africa	Healthcare, food, retail	<ul style="list-style-type: none"> • Block exemption to allow cooperation in the healthcare sector • Price controls on everyday goods, such as toilet paper, disinfectants and pasta • Regulation prohibiting suppliers in a dominant position from implementing material price increases for essential medical equipment and basic consumer goods
Thailand	Healthcare (PPE)	<ul style="list-style-type: none"> • Complaint lodged against a company selling face masks on an e-commerce platform at significantly higher prices

Jurisdiction	Sector	Measures
United Kingdom	Food, retail	<ul style="list-style-type: none">• Temporary softening of competition rules• Retailers allowed to share data on stock levels, cooperate to keep shops open, share distribution depots and delivery vans and pool staff to help meet demand

Table 2 – Initiatives by National Competition Authorities

Jurisdiction	Sector	Initiative(s)
Australia	Aviation, mining, multiple sectors	<ul style="list-style-type: none"> • Authorized coordination among three airline carriers regarding flight schedules on 10 national routes • Authorized coordination in the mining industry to ensure supply of crucial services and products (e.g., PPE, fuel and explosives) • New team to identify price gouging amid the pandemic
Canada	Multiple sectors	<ul style="list-style-type: none"> • Vigilance against deceptive marketing practices and opportunistic collusion among competitors • Procompetitive collaborations among companies to support the delivery of affordable goods and services will be allowed
Czech Republic	Multiple sectors	<ul style="list-style-type: none"> • Guidelines allowing companies to collaborate to the extent necessary to overcome the difficulties related to the pandemic and encouraging companies to seek the competition authority’s guidance
European Competition Network	Multiple sectors	<ul style="list-style-type: none"> • No active intervention against “necessary and temporary measures put in place in order to avoid shortage of supply”
European Free Trade Association	Multiple sectors	<ul style="list-style-type: none"> • Task force to assist competition authorities in Iceland, Liechtenstein and Norway
European Union	Food, retail, healthcare, pharmaceuticals, agricultural industry	<ul style="list-style-type: none"> • Commission sent informal request to EuroCommerce for information about types of cooperation among retailers necessary during the crisis • Commission set up dedicated website providing guidance on business cooperation in response to the pandemic • Commission published Temporary Framework for assessing business cooperation in response to the crisis • Commission offered to exceptionally provide written “comfort” letter to companies for specific, temporary cooperation projects (first comfort letter issued to Medicines for Europe on April 8) • Exemption for collaboration practices among milk, flower and potato producers from the application of antitrust rules

Jurisdiction	Sector	Initiative(s)
Finland	Multiple sectors	<ul style="list-style-type: none"> • Cooperation among companies allowed to ensure adequate supply and equal distribution of products to consumers • <i>But</i>, enforcement against cartels and abuses of dominant positions continues
Germany	Food, retail, beverages	<ul style="list-style-type: none"> • Competition rules temporarily adapted to avoid food shortages • Federal Cartel Office has received more than 20 requests for guidance for business collaboration during the pandemic • Düsseldorf appeal court agreed to reduce cartel fines imposed in 2014 by the Federal Cartel Office on three brewers by 25% in consideration of the economic impact of COVID-19
Greece	Multiple sectors	<ul style="list-style-type: none"> • No action against vertical practices relating to the imposition of maximum resale prices or recommended prices for supply contracts and distribution agreements • COVID-19 Competition Task Force to provide guidance on the application of competition rules, inform the public about COVID-19-related investigations and about the readjustment of the working schedule, as well as procedural matters
Hong Kong	Multiple sectors	<ul style="list-style-type: none"> • Guidance on approach toward “cooperation genuinely necessitated by the COVID-19 outbreak,” including guidance on joint buying, joint production agreements, sales-related joint ventures and exchanges of information
Iceland	Pharmaceuticals, healthcare, transportation, financial services	<ul style="list-style-type: none"> • Possibility of exemptions for pharmaceutical, health, travel and financial sectors to effectively deal with the pandemic • Small pharmacies allowed to cooperate during the crisis
International Competition Network	Multiple sectors	<ul style="list-style-type: none"> • Competition authorities encouraged to accommodate competitor collaboration and to provide guidance on enforcement policies during the pandemic
Italy	Telecoms, public procurement, retail	<ul style="list-style-type: none"> • Authority expressed concerns over certain provisions of COVID-19 law as it may significantly reduce competition in the telecommunications sector and in public tenders • Guidance on exemption criteria regarding business cooperation for the production and supply of essential goods during the crisis published on April 24 • Authority offered to provide informal advice or written “comfort” letters to companies for specific, temporary cooperation projects

Jurisdiction	Sector	Initiative(s)
		<ul style="list-style-type: none"> Informal requests for information sent to large supermarket chains concerning price increases for essential goods
Mexico	Multiple sectors, real estate	<ul style="list-style-type: none"> National association of real estate developers warned against agreeing on granting discounts and benefits to tenants who are up to date with their payments as this may result in anticompetitive collusion Competitors allowed to collaborate to the extent necessary to ensure supply of essential goods, subject to notification to the competition authority
Moldova	Multiple sectors	<ul style="list-style-type: none"> Warning for companies to avoid collusion to increase prices, abuse a dominant position or fail to notify mergers
Namibia	Healthcare (PPE)	<ul style="list-style-type: none"> Findings of artificial price increases by retailers of healthcare products, including pharmacies, supermarkets and distributors for essential products, including hand sanitizers and face masks, by up to 700%
Netherlands	Food, healthcare, logistical services	<ul style="list-style-type: none"> More lenient enforcement approach towards business cooperation Supermarkets can inform one another about their stocks; drug wholesalers can inform one another about the quantities of products they sell; and logistical services providers can cooperate to provide Dutch citizens with vital supplies Approval of cooperation project allowing hospitals, hospital pharmacies and pharmaceutical wholesalers to temporarily cooperate during the pandemic to prevent or reduce potential shortages of essential medicines
Nigeria	Healthcare (PPE)	<ul style="list-style-type: none"> Monitoring of anticompetitive conduct to prevent profiteering and exploitation Federal Competition & Consumer Protection Commission urged suppliers, retailers, online shopping platforms and individuals who buy to resell not to charge unreasonable or inflated prices Task force to deal with COVID-19-related complaints
Norway	Multiple sectors	<ul style="list-style-type: none"> Complaints regarding excessive prices charged on certain products and warning issued to companies not to exploit the situation Suppliers warned against unreasonable price increases for PPE

Jurisdiction	Sector	Initiative(s)
Peru	Multiple sectors	<ul style="list-style-type: none"> • Competitors allowed to collaborate to the extent necessary to ensure supply of PPE and essential goods, without being required to notify the antitrust authority in advance
Portugal	Multiple sectors	<ul style="list-style-type: none"> • Warning to companies not to exploit the COVID-19 crisis and to refrain from price fixing and market sharing
Romania	Multiple sectors	<ul style="list-style-type: none"> • Companies may cooperate to ensure availability of basic products and secure balanced distribution during the pandemic • Companies required to offer products at competitive prices, and online platforms encouraged to cap unjustified price increases for basic products and services
South Africa	Multiple sectors	<ul style="list-style-type: none"> • Competition Tribunal will prioritize excessive pricing complaints related to COVID-19 • Competition Commission postponed the implementation of recommendations adopted in 2019 relating to the retail sector • Competition Tribunal cleared settlement agreements between Competition Commission and several suppliers of essential goods, including hand sanitizers and face masks, for charging excessive prices during the pandemic – companies agreed to make donations to the solidarity fund/Durban Child & Youth Care Centre and temporarily reduce gross profit margins charged
Spain	Multiple sectors	<ul style="list-style-type: none"> • Set-up of a dedicated email address for complaints connected to the pandemic • Antitrust authority has already received 300 complaints and requests for guidance on business collaboration • Cooperation among companies allowed to ensure adequate supply and equal distribution of products
United Kingdom	Multiple sectors, pharmaceuticals, food and beverage, hospitality, education	<ul style="list-style-type: none"> • No action against business cooperation ensuring equal distribution of products but monitoring of prices of PPE (e.g., masks and gels) • Supermarkets allowed to cooperate on opening hours and share data on stock levels to meet food supply challenges; retailers allowed to share distribution depots and delivery vans and to pool staff to help meet demand • Task force to target anticompetitive conduct. First report published on April 24. From March 10 to April 19, the task force received almost 21,000 complaints about COVID-19-related issues via email and the online form of the Competition and Markets Authority (the CMA); Complaints relate to,

Jurisdiction	Sector	Initiative(s)
		<p>e.g., misleading claims about goods or services, unjustifiable price increases, particularly for essential goods, or ignoring customers' cancellation or other rights. The task force is targeting the hospitality sector, in particular hotel operators, wedding organizers and childcare providers</p> <ul style="list-style-type: none"> • Open letter to the pharmaceutical and food and beverage industries warning companies not to capitalize on the pandemic • Guidance on "CMA approach to business cooperation in response to COVID-19" setting out how the CMA will apply the exemption criteria for cooperation practices and providing details of the prioritization of cases during the crisis • Call for exceptional enforcement powers to tackle COVID-19 profiteers • Consideration of the impact of the current crisis within the ongoing market investigation into the funeral sector • Discussions with e-commerce platforms on how to prevent price gouging in online markets • Private schools warned not to infringe competition rules regarding discounts and refunds on school fees in connection with the pandemic • In a joint letter with the General Pharmaceutical Council, the CMA has warned pharmacy owners and superintendent pharmacists against price gouging for essential products, including hand sanitizer, face masks and paracetamol
United States	Healthcare	<ul style="list-style-type: none"> • "[A]nyone who violates the antitrust laws of the United States in connection with the manufacturing, distribution or sale of public health products such as face masks, respirators and diagnostics" will be held accountable • The U.S. Department of Justice (DOJ)/Federal Trade Commission (FTC) willing to evaluate proposed competitor collaboration conduct addressing public health and safety needs within seven days of receipt • DOJ stated it will not challenge the collaborative efforts of six medical supplies distributors to expedite and increase manufacturing and distribution of PPE • DOJ/FTC issued joint guidance for COVID-19-related collaborations; also offering an expedited review procedure for healthcare cooperation projects

Table 3 – Investigations by National Competition Authorities

Jurisdiction	Sector	Allegations
Albania	Healthcare (PPE)	<ul style="list-style-type: none"> • Preliminary abuse of dominance investigation into the retail and wholesale market for PPE products, based on verified shortages of supply and allegedly unjustifiable price increases for hand sanitizers, alcohol and masks
Brazil	Healthcare (PPE), pharmaceuticals	<ul style="list-style-type: none"> • Investigations against several market players for unreasonable and disproportionate price increases for laboratory tests, alcohol-based hand sanitizers and surgical masks
Bulgaria	Oil and gas	<ul style="list-style-type: none"> • Competition Authority launched investigations against oil refining enterprises, oil distributors and petrol stations relating to horizontal and vertical agreements, and an alleged abuse of a dominant position for keeping the prices of mass automobile fuels high despite the significant fall of crude oil prices worldwide • Competition Authority carried out dawn raids at the premises of the national Petroleum and Gas Association in the context of allegations that several of its members colluded to keep fuel prices high, despite the significant fall of crude oil prices worldwide caused by the pandemic
China	Healthcare (PPE)	<ul style="list-style-type: none"> • Fines issued on more than 4,500 enterprises for price gouging over medical PPE and important commodities
Greece	Healthcare (PPE)	<ul style="list-style-type: none"> • Investigation into price increases and output restrictions of healthcare materials and other products
Hungary	Healthcare (PPE)	<ul style="list-style-type: none"> • Consumer protection investigation into the sale of hand sanitizers through a TV program to verify whether consumers were provided with misleading information or were subject to aggressive commercial practices
Israel	Retail, pharmaceuticals	<ul style="list-style-type: none"> • Investigations into retail association for coordinating rent payments and the dismissal of workers during the pandemic • Consumer protection authority imposed fines on businesses for providing misleading information over the anti-COVID-19 effects of certain medicinal products
Italy	Healthcare (PPE), digital platforms, laboratory testing	<ul style="list-style-type: none"> • Two separate investigations against online platforms in relation to the marketing of hand sanitizers, disposable respiratory protection masks and other sanitary appliances –

Jurisdiction	Sector	Allegations
		<p>allegations: (i) spreading of misleading information regarding the effectiveness of these products; and (ii) imposing unjustified and significant increases in prices</p> <ul style="list-style-type: none"> • U.S. crowdfunding website asked to change the way it charges optional commissions on donations to hospitals • Requests for information sent to several private healthcare facilities and laboratories advertising serological tests for COVID-19 at excessively high prices • Approval of cooperation project for the distribution of face masks through pharmacies and parapharmacies submitted by the two main Italian associations of pharmaceutical wholesalers – the Italian competition authority (ICA) consulted the European Commission prior to approval
Korea	Healthcare (PPE)	<ul style="list-style-type: none"> • Dawn raids conducted; investigation into unfair trade practices in relation to face masks
Netherlands	Pharmaceuticals	<ul style="list-style-type: none"> • Preliminary investigation regarding high-speed tests for COVID-19 ended as developer agreed to supply the tests in accordance with government's conditions
Poland	Healthcare (PPE)	<ul style="list-style-type: none"> • Investigations against wholesalers supplying PPE to hospitals alleged termination of contracts with hospitals to sell the equipment at significantly higher prices
Romania	Healthcare (PPE)	<ul style="list-style-type: none"> • Investigations into allegedly excessive prices charged by producers, importers and sellers of surgical masks, disposable gloves, antiseptic wipes and antiseptic solutions • Investigations against manufacturers of medical and sanitation equipment over alleged price fixing
Russia	Healthcare (PPE)	<ul style="list-style-type: none"> • Investigations into price collusion among retailers and wholesalers of face masks
South Africa	Healthcare (PPE), agricultural industry	<ul style="list-style-type: none"> • About 600 COVID-19-related complaints filed and some 100 preliminary investigations opened regarding price increases in the healthcare and agricultural sectors • Antitrust authority reached settlement agreements with PPE distributors over price gouging practices during the pandemic • Competition Tribunal fined a company for excessive price increases for face masks during the pandemic

Jurisdiction	Sector	Allegations
South Korea	Healthcare (PPE)	<ul style="list-style-type: none"> Investigation involving online sellers of surgical masks in relation to bundling practices and other marketing activities capable of reducing the supply of face masks Investigations into collusion between mask filter manufacturers
Spain	Healthcare (PPE), funeral market, insurance, food, multiple sectors	<ul style="list-style-type: none"> Investigations into price increases and coordination in the provision of hand sanitizers and funeral services Preliminary investigation into the insurance market, notably in relation to death and sick leave insurance, to detect potential antitrust infringements in the context of the pandemic Preliminary investigation into pricing conducts in the food sector and “other sectors” to detect potential antitrust infringements in the context of the pandemic
Turkey	Retail, food, hygiene products	<ul style="list-style-type: none"> Investigations into excessive pricing practices by retailers and manufacturers of food and hygiene products
Ukraine	Retail pharmacy, retail, food	<ul style="list-style-type: none"> Investigation into coordinated price increases among pharmacies in Kiev Investigation into major retail chains in relation to price increases for essential food products Investigation against the largest national airline company for increasing prices of tickets in the days before the cancellation of flights due to the pandemic
United Kingdom	Online accommodation booking, Healthcare (PPE)	<ul style="list-style-type: none"> Investigations against two separate platforms for changing booking conditions related to the COVID-19 crisis Investigation against four pharmacies and convenience stores for allegedly charging excessive and unfair prices for hand sanitizers during the pandemic
United States	Healthcare (PPE)	<ul style="list-style-type: none"> Executive Order pursuant to the Defense Production Act prohibits hoarding and excessive pricing of designated healthcare and medical items U.S. federal and state price gouging task forces and investigations under way

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