

March 26, 2020

The Honorable Ken Paxton  
Attorney General, State of Texas  
300 W. 15<sup>th</sup> Street  
Austin, TX 78701

Dear Attorney General Paxton:

I'm writing to express my deep disappointment in learning that an anti-"price gouging" demand letter from your office is holding hostage 750,000 desperately needed N95 face masks. And this is not the only report of your office taking actions based on price gouging concerns. This is obviously immediately harmful but is also based on a well-understood economic fallacy that I would have thought was banished from the Texas AG office long ago.

I understand that you may not have personally taken this action; however, it is the job of the Attorney General to set the tone of the office and to determine enforcement priorities. Your office has the power of prosecutorial discretion, and you also have the power to forbear, especially in times of emergency.

But instead, your office has doubled-down, and based on an economic fallacy. Almost all free-market economists will tell you that there is no such thing as "price-gouging;" there is only real-time supply and demand in a dynamic market. Prices change all the time based on changing information. If farmers don't get enough (or too much) rain, the price of crops changes in response. The same thing happens in an emergency, except more quickly and more sharply.

Markets work all the time, including in emergencies. In fact, by accurately pricing goods in an emergency, higher prices allocate goods more efficiently. Had retailers not been afraid of price gouging laws, they could have immediately raised prices on toilet paper and other paper goods that are still in short supply weeks later. Accurate prices discourage hoarding.

There should be no laws against price-gouging in Texas; but in the meantime, your office should forbear and should choose better targets for enforcement. Please use your office's discretion and forbear from threatening dynamic commerce in much needed goods, especially during this emergency. I would be happy to discuss this further with you at your invitation.

Sincerely,

A handwritten signature in blue ink that reads "Tom Giovanetti".

President