

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30736
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

April 6, 2020

VIA U.S. Mail & E-Mail



Re: *Amazon Sales*

Dear [REDACTED]:

This letter gives you notice of intended action in accordance with MCL 445.905(2) and directs you to immediately cease and desist from engaging in the unlawful business practices described below.

As background, this Office is responsible for enforcement of the Michigan Consumer Protection Act, MCL 445.901 *et seq* (the "MCPA"). Under this Act, the Attorney General may bring injunctive actions to protect the interests of consumers.

As a means of enforcing its own Marketplace Fair Pricing Policy, Amazon identified a group of third-party sellers of concern, *i.e.*, those third-party sellers who grossly inflated the prices of Coronavirus-related consumer products sold on the Amazon marketplace. To assist us in carrying out our function under the MCPA, Amazon provided this Office with a list of those third-party sellers that are based in Michigan, along with the sales data for each of those sellers. Your Amazon storefront, operating under the username "ZXL Distribution Group", was included in that list.

In analyzing the sales data that Amazon provided, when viewed through the lens of the well-known fears surrounding the Coronavirus outbreak, it is apparent that you have attempted to exploit the current public health emergency for your own financial gain. That is, you significantly marked-up the prices for hand sanitizer, disinfectant spray, and N95 respirators—all three of which are highly sought-after products in the current crisis—as a means to increase your bottom line at the public's expense.

For example, on February 13, 2020, you sold a 10-pack of 3M N95 Cool Flow Valve Respirators to a consumer in Bay City, Michigan for \$59.95. The average price for that product (calculated by taking the trailing 30-day average sales price for all Amazon sales of that product) as of January 19, 2020 was just \$13.67. Also on February 13, 2020, you sold two 40-packs of 3M N95 Particulate Respirators with Valve to a consumer in Saginaw, Michigan for \$229.00 per pack, plus \$39.95 shipping—a grand total of \$497.95. The average price for the same product as of January 19, 2020 was just \$83.44 per pack. And on February 24, 2020, you sold a 20-pack of SAS Safety N95 Particle Respirators to a consumer in Ann Arbor, Michigan for \$48.00, when the same product sold for an average price of \$14.43 on January 19, 2020.

But your activity was not constrained to Michigan's geographic boundaries: You also exploited out-of-state consumers, and even consumers across the globe, with your excessive prices. For instance, on March 2, 2020, you charged a consumer in New York City \$119.00 for a 6-pack of 32 oz. bottles of Purell disinfectant spray, which sold for, on average, just \$41.19 on January 19, 2020. And on February 13, 2020, you sold a 40-pack of 3M N95 Particulate Respirators with Valve to a consumer in Taipei for \$259.99 plus \$72.45 shipping—a grand total of \$332.44—where, as noted above, such a product went for, on average, just \$83.44 per pack on January 19, 2020.

The above-listed examples, while just a sampling of your egregious behavior, are illustrative of how you took advantage of consumers for your own benefit during this uncertain time. Each of these examples, as well as the plethora of others contained in the sales data that Amazon provided, implicate the following unfair trade practices, as identified in Michigan's Consumer Protection Act:

(z) Charging the consumer a price that is grossly in excess of the price at which similar property or services are sold.

(aa) Causing coercion and duress as the result of the time and nature of a sales presentation.

[MCL 445.903(1).]

The purpose of this letter is to put you on notice as required by the MCPA. From this point, this Office has the latitude to either commence a lawsuit after ten days or invoke a judicial process for a formal investigation through subpoenas. While we are prepared to follow one or both of these paths, we are willing to enter into an assurance of voluntary compliance—a device anticipated in the MCPA.

Page 3
April 6, 2020

We request your written response to this letter within ten days. Your response to this letter will help us determine which of the above-referenced paths will be necessary.

We look forward to hearing from you soon.

Sincerely,

/s/ Rebecca Berels

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Assistant Attorneys General

Corporate Oversight Division

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