

## Surveillance Pricing

### The Problem for Consumers

Before the rise of online shopping and mass data collection, consumers could shop anonymously. Now, companies can now gather data on consumers' purchase histories, search history, "likes" on social media, geolocation, IP address and more to create a detailed portrait of a consumer. For example, an investigation published by Consumer Reports showed that Kroger creates detailed profiles of its loyalty program members based on inferences from the data it collects, such as the shopper's gender, age, income, household size, level of interest in going on a cruise, whether they own a cat or a dog, and more.<sup>i</sup>

Companies can then use this information to charge different prices to different consumers—known as surveillance pricing—based on a consumer's demographic information, their inferred interests, how desperate they think the consumer is, and more. For example:

- An investigative journalist writing for SFGate looked at the prices offered for a hotel room in Manhattan for a specific date, then varied his operating system, browser, cookies, and location (his computer's IP address).<sup>ii</sup> When he changed his IP address from the Bay Area to Phoenix and then to Kansas City, the prices dropped by more than \$200 per night in one instance and more than \$511 in another instance.
- The Wall Street Journal reported that Orbitz, the travel aggregation company, determined that Mac users spent more per night on hotels than Windows users and began steering Mac users towards pricier hotels.<sup>iii</sup>
- In July of 2025, Delta's President announced that 20% of the airline's tickets will be priced by AI, saying "We will have a price available on that airplane at that time that's available to you the individual."<sup>iv</sup>
- A Minnesota local news site discovered that Target changed the prices displayed on its app for certain products based on whether the customer—and their device—was physically inside a Target store. When the reporters looked at the Target app while inside a store, they found that a Graco car seat was \$72 more expensive than when they had been sitting on the far side of the Target parking lot, and a Dyson vacuum was \$148 more expensive.<sup>v</sup>

A CR review of state bills found that in 2025, legislators introduced 13 bills pertaining to surveillance pricing.

## Consumer Reports' Positions

**CR supports federal and state legislation to prohibit surveillance pricing.** State legislators have stepped in to tackle this issue. In California, CR currently co-sponsors the Surveillance Pricing Protection Act (AB 446) which prohibits setting customized prices for individuals or groups of individuals based on personal information.<sup>vi</sup> It includes tailored exemptions for insurance and credit offers, as well as certain types of transparently offered discounts. CR also supported HB 1264 in Colorado, which took a similar approach to prohibiting surveillance pricing, and also prohibited surveillance wages.<sup>vii</sup>

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<sup>i</sup> Derek Kravitz, "Inside Kroger's Secret Shopper Profiles: Why You May Be Paying More Than Your Neighbors" *Consumer Reports*, May 21, 2025. <https://www.consumerreports.org/money/questionable-business-practices/kroger-secret-grocery-shopper-loyalty-profiles-unfair-a1011215563/>

<sup>ii</sup> Keith A. Spencer, "Hotel booking sites show higher prices to travelers from Bay Area," *SFGate*, Feb. 3, 2025. <https://www.sfgate.com/travel/article/hotel-booking-sites-overcharge-bay-area-travelers-20025145.php>

<sup>iii</sup> Dana Mattioli, "On Orbitz, Mac Users Steered to Pricier Hotels," *Wall Street Journal*, Aug. 23, 2012 <https://www.wsj.com/articles/SB10001424052702304458604577488822667325882>

<sup>iv</sup> Gary Leff, "Delta Is Turning Ticket Pricing Over To AI—By Year-End, 20% Of Fares Will Exactly Match The Most You're Willing To Spend", July 10, 2025, <https://viewfromthewing.com/delta-is-turning-ticket-pricing-over-to-ai-by-year-end-20-of-fares-will-exactly-match-the-most-youre-willing-to-spend/#:~:text=In%20the%20fall%2C%20Delta%20Air,Israeli>

<sup>v</sup> Chris Hrapsky, "The Target app price switch: What you need to know" *Kare 11*, Jan. 27, 2019 <https://www.kare11.com/article/money/consumer/the-target-app-price-switch-what-you-need-to-know/89-9ef4106a-895d-4522-8a00-c15cff0a0514>

<sup>vi</sup> "Consumer Reports supports California prohibition on surveillance pricing (AB 446)", May 12, 2025, <https://advocacy.consumerreports.org/research/consumer-reports-supports-california-prohibition-on-surveillance-pricing-ab-446/>

<sup>vii</sup> "Consumer Reports supports HB 1264, prohibiting surveillance pricing", April 4 2025, <https://advocacy.consumerreports.org/research/consumer-reports-supports-hb-1264-prohibiting-surveillance-pricing/>

## About Consumer Reports

Founded in 1936, CR is on a mission to create a fair and just marketplace for all. Widely known for our rigorous research and testing of products and services, we also survey millions of consumers each year, report extensively on marketplace issues, and advocate for consumer rights and protections around safety, digital rights, financial fairness, and sustainability. CR is independent and nonprofit.