



September 11, 2025

California State Assembly
State Capitol 1315 10th Street
Sacramento, CA 95814

Re: Senate Bill 259: Device-based pricing - Support

Dear Honorable Assemblymembers,

Consumer Reports¹ writes in support of SB 259. This bill is a meaningful step towards addressing online algorithmic pricing strategies that increasingly stretch Californians' pocketbooks thin.

Investigative journalists have documented numerous examples of companies showing different prices to consumers based on their IP address—including higher prices for Californians than residents of other states—and based on attributes of their devices, like whether they are searching from a Mac or PC. Consumer Reports has heard from our members, 175,000 of whom live in California, about their frustrations with opaque pricing tactics.

In this “Year of Affordability,” SB 259 represents an opportunity for legislators to take one modest step towards making online pricing fairer and more affordable for Californians. We urge an ‘aye’ vote.

What SB 259 does

SB 259 prohibits the use of a consumer’s device data—such as battery life, the age of their device, and the number of wireless connections detected—from being used to generate a price offered to them. It also prohibits the use of the device’s geolocation as an input to a price offered to a consumer.

The bill includes some reasonable exemptions. For example, location data can factor into a consumer’s price when it’s necessary to reflect differences in the costs associated with providing a good or service (such as higher prices for goods in remote areas where delivery may be more

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

expensive), or when it's necessary to reflect variations in state or locally imposed taxes and fees. A consumer's device geolocation can also be used to inform a price based on the real-time demand for a product in the consumer's vicinity if the product is provided immediately upon request, as is the case with some ride-hailing applications. The bill also does not apply to coupons, discounts, or sales that do not incorporate a consumer's device or geolocation data.

What is device-based pricing?

Device-based pricing can be difficult to detect because consumers rarely have a view into what information a company has about them, what the prices they see are based on, or what prices other customers may be seeing for the same product at the same store. Still, enterprising journalists have discovered examples:

- An investigative journalist writing for SFGate looked at the prices offered for a hotel room in Manhattan for a specific date, and varied his operating system, browser, cookies, and location (his computer's IP address).² He found that when he changed his IP address from a Bay Area location to locations in Phoenix and Kansas City, the prices dropped by more than \$200 per night in one instance, and more than \$511 in another instance.
- ProPublica found that test-prep company Princeton Review was offering different prices for its tutoring services depending on a customer's zip code, which can be a proxy for race in many parts of the country.³ The result, they found, was that Asian customers were nearly twice as likely to receive a higher price.
- 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.⁴
- 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.⁵
- Following the Minnesota investigation, the Sonoma County Department of Agriculture/Weights and Measures division also conducted an investigation into Target.

² 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>

³ Julia Angwin, Surya Mattu and Jeff Larson, "The Tiger Mom Tax: Asians Are Nearly Twice as Likely to Get a Higher Price from Princeton Review," *ProPublica*, Sept. 1, 2015 <https://www.propublica.org/article/asians-nearly-twice-as-likely-to-get-higher-price-from-princeton-review>

⁴ Dana Mattioli, "On Orbitz, Mac Users Steered to Pricier Hotels," *Wall Street Journal*, Aug. 23, 2012 <https://www.wsj.com/articles/SB10001424052702304458604577488822667325882>

⁵ 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>

Seven California District Attorneys brought a suit against Target, which alleged that the prices for some products changed on the Target app when consumers entered physical stores. The suit resulted in Target paying a \$5 million settlement, along with several court orders, including barring the retailer from using its app to change the price of a product based on a consumer's location.⁶

Consumers are opposed to device-based pricing

To get a sense for how consumers feel about personalized pricing, Consumer Reports has conducted a series of nationally representative surveys on the subject. One, administered in May of 2024 to a sample of 2,022 US adults, found that 66% of Americans were opposed to the practice of online retailers selling the same goods and services at different prices depending on the buyer's personal information.⁷

There's another downside for consumers beyond potentially paying higher prices. Device-based pricing can make the experience of trying to discover the lowest available price for a product much more time intensive and frustrating. Savvy consumers may try using VPNs to mimic different locations, turning off cookies, or searching from another person's device. Putting the onus on consumers to undertake this kind of online price sleuthing is not reasonable. It's also not good for a competitive market, which relies on consumers to comparison shop in order to create real competition between businesses.

Often, our members can't know for sure if they are experiencing device-based pricing or dynamic pricing—where the price for everyone changes quickly—or other pricing tactics. What they do know is that it is increasingly difficult to try to find the best price for a product. SB 259 is a one meaningful step to help address this frustration. Consumer Reports respectfully encourages an 'aye' vote.

Sincerely,
Grace Gedye
Policy Analyst
Consumer Reports

CC: Senator Aisha Wahab

⁶ CBS Bay Area News, "Target Reaches \$5M Settlement With California District Attorneys Over Alleged False Advertising," March 11, 2022, <https://www.cbsnews.com/sanfrancisco/news/target-reaches-5m-settlement-with-california-district-attorneys-over-alleged-false-advertising/>

⁷ Consumer Reports Survey Group, "A.I./Algorithmic Decision-Making: Consumer Reports Nationally Representative Phone and Internet Survey, May 2024," report prepared July 9, 2024 <https://advocacy.consumerreports.org/wp-content/uploads/2024/07/CR-AES-AI-Algorithms-Report-7.25.24.pdf>