December 16, 2025

Chris Mufarrige
Director of the Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

cc: State Attorneys General offices

Dear Director Mufarrige,

Consumer Reports writes to urge you to launch an investigation into the individualized pricing of Instacart for potential deceptive or unfair pricing practices under Section 5 of the FTC Act. We are attaching to this letter a petition signed by 41,990 consumers urging regulators to hold Instacart accountable if the company's behavior violates existing consumer protection laws.

A monthslong investigation by Consumer Reports, and its partners Groundwork Collaborative and More Perfect Union, found that U.S. shoppers who order grocery deliveries through Instacart are unknowingly part of widespread, AI-enabled experiments that price identical products differently from one customer to the next — sometimes by as much as 23 percent.[1]

Hundreds of volunteers shopped simultaneously at specific stores on Instacart's platform during controlled experiments, taking screenshots of the prices they saw. About three quarters of the products we checked were offered at different prices to different consumers. Some products were offered at as many as five different prices. Seemingly small price variations could add up to big differences in the overall cost of groceries: The price of the same basket of food at a Seattle-area Safeway on the Instacart platform, for example, ranged from $114.34 to $123.93 — roughly a $10 difference. Based on how much Instacart says the typical household of four spends on groceries, the average price variations observed could translate into a cost swing for a household of four of about $1,200 per year.

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[1] Derek Kravitz, *Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds*, Consumer Reports, (Dec. 9, 2025), https://www.consumerreports.org/money/questionable-business-practices/instacart-ai-pricing-experiment-inflating-grocery-bills-a1142182490/. Unless otherwise noted, information about Instacart's pricing policies are derived from this article.

We also found that Instacart repeatedly showed different customers different “original” prices of the same discounted item, making the purported savings appear larger or smaller, depending on which group they’d been sorted into. For example, most volunteers shopping on Instacart at a Safeway in Seattle were shown original prices for Premium brand saltine crackers of $5.93, $5.99, or $6.69, while the final sale price was the same for everyone — $3.99.

First, we urge the Commission to look at whether “sale” prices were legitimate. Regulations promulgated by the Commission under Section 5 prohibit the advertisement of fictitious original prices in order to trick people into believing they are getting a good deal. Those regulations state:

> One of the most commonly used forms of bargain advertising is to offer a reduction from the advertiser's own former price for an article. If the former price is the actual, bona fide price at which the article was offered to the public on a regular basis for a reasonably substantial period of time, it provides a legitimate basis for the advertising of a price comparison. Where the former price is genuine, the bargain being advertised is a true one.
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> If, on the other hand, the former price being advertised is not bona fide but fictitious—for example, where an artificial, inflated price was established for the purpose of enabling the subsequent offer of a large reduction—the “bargain” being advertised is a false one; the purchaser is not receiving the unusual value he expects.[2]

While it is technically possible that each of the ostensibly original prices for Saltines above were offered for a “reasonably substantial period of time, in the recent, regular course of his business, honestly and in good faith,”[3] the disparate array of “original” prices shown to different shoppers contemporaneously is indicative that those prices may not have been *bona fide* prices. Further investigation of these purported discounts is warranted.

More fundamentally, the FTC should look at the issue of whether the hidden, individualized pricing conducted by Instacart constitutes a deceptive or unfair business practice. Consumers shopping on Instacart reasonably would have assumed they were getting the same price as other shoppers; indeed, Instacart has admitted in its corporate marketing and investor materials that consumers were “not aware” of the differential pricing. Consumer Reports journalists spoke with Instacart users about this issue: One consumer and Instacart user from Ohio said that “I just didn’t think that I, or a neighbor, would pay less for the same grocery product based on an algorithm. I’m not as trusting of a company that practices that.” Another Instacart user from California told Consumer Reports “We’re already paying 10% to 20% more for the convenience of delivery . . . . We just assumed that the listed price was the price for

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[2] Code of Federal Regulations, Title 16 Part 233.1(a), https://www.ecfr.gov/current/title-16/chapter-I/subchapter-B/part-233.
[3] Code of Federal Regulations, Title 16 Part 233.1(b), https://www.ecfr.gov/current/title-16/chapter-I/subchapter-B/part-233.

everyone. It's eye-opening . . . . All prices should be the same for everybody, whether you're rich or poor." Given consumer expectations, failure to disclose differential pricing practices that could have been material to many shoppers could constitute a deceptive practice.

The FTC should also investigate and offer guidance on the extent to which secret personalization of prices and discounts can be unfair, or contrary to consumer interests. Certainly, some consumers will be materially harmed by this practice. Based on our investigation into Instacart, the price of a basket of goods on Instacart varies by an average of about 7% from customer to customer. If this pricing is applied consistently from consumer to consumer, some would end up paying $1,200 more for groceries for a household of four over the course of a year — for the same exact products. Consumers in general may be worse off because of this practice as well, if Instacart's algorithms are increasingly able to capture proportionately more of the consumer surplus from each transaction. Further, because prices are secret, consumers have no way of knowing if they're getting worse deals or not, and cannot reasonably avoid paying a secret premium for the same items as someone else.

More broadly, price personalization can impair market transparency, as it becomes more difficult for the public to consistently compare prices between different vendors. Word of mouth recommendations, or online roundups of the best deals available online are one way that consumers shop around for the best value; if everyone is seeing different prices, those price discovery tactics will fail to work.

The FTC should also analyze any potential benefits to personalization as well: some consumers may benefit from price personalization if they receive a lower price that results in a windfall or a purchase they otherwise would not have made. However, if consumers in general are worse off as a result of these pricing practices, the FTC should take action to protect consumers from a practice that is likely to become more prevalent in the near future.

Sincerely,

Justin Brookman
Director, Digital Marketplace Policy

Grace Gedye
Senior Policy Analyst