

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 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.¹

Companies can then use this information to charge different prices to different consumers—known as personalized pricing or surveillance pricing—based on a consumer's demographic information, their inferred interests, their price sensitivities, 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).² 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.³
- 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

¹ 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/>

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 Dana Mattioli, "On Orbitz, Mac Users Steered to Pricier Hotels," *Wall Street Journal*, Aug. 23, 2012

<https://www.wsj.com/articles/SB10001424052702304458604577488822667325882>

been sitting on the far side of the Target parking lot, and a Dyson vacuum was \$148 more expensive.⁴

A CR review of state bills found that in 2024, two state-level bills related to surveillance pricing were introduced; by 2025 that number grew to 13.⁵ In 2026, more than 40 state-level bills were introduced⁶ and Maryland, Connecticut, and New Jersey enacted new laws. State legislators in New York also passed a bill that awaits Gov. Hochul's signature.

Consumer Reports' Positions:

CR supports federal and state legislation to prohibit surveillance pricing. CR worked with legislators across many states in 2026 to strengthen support surveillance pricing legislation by providing technical feedback, drafting assistance, testimony, and more. In California, CR currently co-sponsors the Surveillance Pricing Protection Act (AB 2564) which prohibits setting customized prices for individuals or groups of individuals based on personal information.⁷ It includes tailored exemptions discounts, including transparently offered discounts based on personal data.

⁴ 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>

⁵ Cheyenne Tan, "How U.S. States are Tackling Algorithmic Pricing: 2025 Bill Tracker and Analysis," August 1, 2025 <https://innovation.consumerreports.org/how-u-s-states-are-tackling-algorithmic-pricing-2025-bill-tracker-and-analysis/>

⁶ Lindsey Tonsager, Jayne Ponder & Natalie Maas, "State Lawmakers Introduce New Wave of Personalized Algorithmic Pricing Bills," Covington, March 26, 2026 <https://www.insideprivacy.com/artificial-intelligence/state-lawmakers-introduce-new-wave-of-personalized-algorithmic-pricing-bills/>

⁷ "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/>

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.