September 21, 2026

**Re: Fair Pricing and Transparency Act (CB 121267)**

Dear Councilmembers,

Consumer Reports[1] commends Mayor Katie Wilson and Councilmembers Rinck and Foster for their work on Seattle's ordinance banning surveillance pricing, the Fair Pricing and Transparency Act. With this ordinance, Seattle could make real progress on affordability.

Surveillance pricing, also sometimes referred to as "personalized" pricing, is when a company uses personal data that they've gathered about a consumer—data about their online search history, inferences about family structure, health conditions, income, and more—to change the price of a product or the discount offered to specific consumer.

Surveillance pricing is incredibly unpopular with voters. Polling finds that 76% of voters say it is unfair for companies to use customers' personal information to charge different prices for the same products, which is precisely what the Fair Pricing and Transparency Act tackles.[2] Policymakers on both sides of the aisle have identified this issue as one that requires immediate action,[3] and several states have enacted legislation to ban surveillance pricing.[4]

It is critical that the council not weaken the bill via amendments or add loopholes that would, in practice, leave consumers unprotected. The bill must maintain strong definitions that create a comprehensive ban, rather than a prohibition that only tackles a small piece of the issue. It must

---

[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.

[2] Polling from Data for Progress and Groundwork Collaborative, May 8, 2026, https://groundworkcollaborative.org/wp-content/uploads/2026/06/Pricing-Survey_IP-Memo_May2026.pdf

[3] See, for example, the Senate hearing convened by Sen. Josh Hawley (R-MO) on August 4th, "Your Data, Their Profit: The Consumer Cost of Surveillance Pricing," and the One Fair Price Act, introduced by Sen. Ruben Gallego (D-AZ), which would prohibit the practice.

[4] So far in 2026, three states have enacted laws aimed at banning surveillance pricing, and a fourth, New York, has a bill pending on the Governor's desk. See New Jersey: *Fair Price Protection Act*, A.B. 4085, 222d Leg., Reg. Sess. § 3 (N.J. 2026) (enacted July 23, 2026); Connecticut: Conn. Pub. Act No. 26-130, § 11(c)(1) (2026); Maryland: *Protection From Predatory Pricing Act*, 2026 Md. Laws ch. 154, § 1 (codified at Md. Code Ann., Com. Law § 13-321(b)(2); New York: *One Fair Price Act*, S. 8623-B & A. 9349-B, 2025–2026 Leg. Sess. § 1 (N.Y. 2026)

also keep basic safeguards in place surrounding “personalized” discounts that target individuals or niche groups with different prices. Currently, the bill permits a vast array of discounting practices while requiring increased transparency around discounts and placing some limitations on how consumers can be profiled. Without these carefully constructed safeguards, the bill will inadvertently incentivize companies to increase “original” prices, and then provide personalized discounts to each individual’s personal level of demand.

*What is surveillance pricing?*

Not long ago, before the rise of online shopping and mass data collection, consumers could shop anonymously, confident that the price tag they saw on the shelf wasn’t influenced by the store’s knowledge of their family, shopping habits, online browsing, ability to pay, or any particular situation that could increase their urgency to purchase. That is no longer the case.

Companies can now gather vast troves of data on each individual consumer. For example, in a Consumer Reports investigation of Kroger’s loyalty program data practices, consumers requested the data the grocer had collected about them.[5] One consumer received a 62-page long profile, which included inferences about the size of his family, his education level, an estimate of his income, and other disparate information other companies might use to segment their shoppers for price targeting, including how likely he is to go on a cruise, have a pet, or travel internationally.[6]

Profiles like these, combined with technology that enables companies to display different prices to different consumers online—or send discounts on an individualized basis—means that companies have all the tools they need to implement surveillance pricing. Companies can understand when a consumer might be desperate enough to tolerate a higher price or when a loyal customer will keep coming back even in the absence of discounts.[7]

Surveillance pricing can be difficult to detect, because consumers rarely have a view into what information a company has about them, or what the prices they see are based on. 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).[8] He found that when he changed his IP address

[5]Derek Kravitz, “Inside Kroger's Secret Shopper Profiles: Why You May Be Paying More Than Your Neighbors”, Consumer Reports, May 21, 2025
[6] ibid
[7] For example, when a *Washington Post* reporter requested their loyalty program data from Starbucks, they found that they actually received fewer discounts during periods when they made more purchases from Starbucks. See: Geoffrey Fowler, “The hidden way that using a rewards card can cost you more,” *Washington Post*, October, 18 2025, https://www.washingtonpost.com/technology/2025/10/18/starbucks-loyalty-program-surveillance-pricing/
[8] 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

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 zipcode.[9] 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.[10]
- 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.[11]
- An investigation by the Wall Street Journal found that Staples varied the prices consumers saw for specific items based on their estimated location, seemingly offering a discount if a consumer is physically near competitor stores OfficeMax or Office Depot.[12] The result was that consumers in higher average income areas tended to get more discounts than consumers in lower average income areas.

In addition to these examples, a recent investigation from Consumer Reports, More Perfect Union and Groundwork Collaborative revealed that Instacart, enabled by the artificial intelligence pricing software Eversight, was running large-scale, hidden price experiments on unsuspecting customers.[13] The team of journalists and researchers analyzed live shopping data from more than 400 Instacart shoppers across four U.S. cities. The findings show many U.S. shoppers who order grocery pickup and delivery through Instacart were unknowingly enrolled in AI-enabled experiments that can charge up to 23% more for the same item ordered from the same store at the same time. Nearly three-quarters of grocery items tested on Instacart showed different prices to different shoppers. Some items carried up to five different price points

---

[9] 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

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

[11] 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

[12] Jennifer Valentino-DeVries, Jeremy Singer-Vine and Ashkan Soltani, 'Websites Vary Prices, Deals Based on Users' Information', *Wall Street Journal,* Dec. 24, 2012, https://www.wsj.com/articles/SB10001424127887323777204578189391813881534

[13] 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-experimentinflating-grocery-bills-a1142182490/

simultaneously. For example, people shopping at a Safeway in Washington, D.C., saw a dozen Lucerne eggs listed at five different prices — $3.99, $4.28, $4.59, $4.69, and $4.79. The average price variations observed in the study could cost a household of four about $1,200 per year. Instacart's algorithmic pricing experiments were found to be occurring through the platform at several of the nation's biggest grocery retailers, including Albertsons, Costco, Kroger, Safeway, Sprouts Farmers Market, and Target.

In the wake of the investigation, U.S. Senator Ruben Gallego introduced a bill to prohibit surveillance pricing citing the investigation, at least 12 other members of Congress sent letters to the FTC and to Instacart, the FTC reportedly opened an investigation into Instacart, and Instacart announced it was ending the practice.[14]

Research from the FTC indicates how widespread the practice of surveillance pricing may be. In July of 2024, the FTC issued orders to eight companies, including Mastercard, Accenture, McKinsey, and JP Morgan Chase, identified as middlemen that offer "surveillance pricing products and services that incorporate data about consumers' characteristics and behavior."[15] The orders contained a detailed list of questions about how the companies segmented consumers and targeted prices. In January of 2025, staff released an interim research summary which indicates breadth of the issue; clients of surveillance pricing or consumer segmentation products included grocery stores, apparel retailers, health and beauty retailers, home goods and furnishing stores, convenience stores, building and hardware stores, and general merchandise retailers such as department or discount stores.[16] Some of the data categories that intermediary firms or their clients collected to facilitate pricing or segmentation include web-pixels, which can collect information like a consumer's IP address (which can approximate their location), the browser they use, the language settings they select, whether they've used their mouse to highlight the name of a particular product, how far down a page they scroll while shopping, and more.[17] Several companies, in response to FTC questions, claimed that these tools can increase margins by 1-4%.[18]

Surveillance pricing can hurt consumers by offering different prices based on a protected status, such as race or gender. It can also hurt consumers by pushing them to pay the most they are

---

[14] Derek Kravitz, "Instacart Stops Pricing Tests on It's Platform Amid Outrage from Customers", Consumer Reports, Dec. 22, 2025, https://www.consumerreports.org/money/questionable-business-practices/instacart-stops-ai-pricing-experiments-a1176475852/

[15] "FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing", Federal Trade Commission, July 23, 2024, https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-issues-orders-eight-companies-seeking-information-surveillance-pricing

[16] "FTC Surveillance Pricing 6(b) Study: Research Summaries A Staff Perspective", January 2025, https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf

[17] ibid

[18] ibid

individually willing to pay, or by taking advantage of them in moments of desperation, when their willingness to pay increases. One hypothetical example offered by former chair of the Federal Trade Commission, Lina Kahn, is airlines charging an individual more for a plane ticket if the airline infers there was a death in the family and the consumer needs to attend a funeral.[19]

Thank you for your consideration, and the time you have dedicated to this issue.

Sincerely,

Grace Gedye
Senior Policy Analyst
Consumer Reports

[19] Jaures Yip, "FTC chair Lina Khan warns that airlines might one day use AI to find out you're attending a funeral and charge more," *Business Insider,* September 23, 2024
https://www.businessinsider.com/ftc-chair-lina-khan-warns-ai-pricing-discrimination-risks-2024-9