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Joint House Majority Policy Committee & Senate Democratic Policy Committee hearing

Wednesday, March 4 | Noon

House Policy Chair Ryan Bizzarro | Senate Policy Chair Nick Miller
Co-hosts Rep. Mary Isaacson | Sen. Nick Pisciottano

12 p.m.	Welcome and member introductions.
12:10 p.m.	Derek Kravitz, Investigative Reporter *Consumer Reports* **Q & A with lawmakers**
12:35 p.m.	George Slover, Senior Counsel for Competition Policy *Center for Democracy & Technology* **Q & A with lawmakers**

Derek Kravitz

Investigative Journalist, Consumer Reports

Expertise: Money, Technology & Privacy

Work At Consumer Reports

Derek is an investigative journalist for Consumer Reports, covering the digital marketplace. His subject areas include algorithmic biases and their harmful effects on consumers, the rise of individualized pricing, emerging technologies behind increasingly sophisticated financial frauds and scams, and how artificial intelligence is reshaping our everyday lives.

Experience and Education

Prior to joining CR, Derek was the director of research at ProPublica and ran a small investigative team at the MuckRock Foundation. He was also a reporter and editor at The Washington Post, The Wall Street Journal, and The Associated Press. Among his numerous awards and achievements, Derek is a three-time Pulitzer Prize finalist. Derek graduated with a bachelor's degree in journalism from the University of Missouri and master's degrees in journalism and international relations from Columbia University in New York City.

December 20025 investigation

*Read the complete investigation **here**.*

Synopsis: A December 2025 investigation by Consumer Reports and Groundwork Collaborative revealed that Instacart uses AI-driven dynamic pricing, charging different customers different prices for the same items. The study found price variations up to 23% on identical products at the same time, potentially costing families more than $1,200 more per year.

Update Dec. 22, 2025: *Prompted by this investigation, Instacart has stopped offering technology that allowed grocery retailers to charge shoppers different prices for the same groceries at the same time. Learn more about that change, as well as legislative and regulatory responses to our findings.*

Good morning, Chairman Bizzarro and members of the Pennsylvania House and Senate Policy Committees. My name is Derek Kravitz, and I'm an investigative journalist and deputy editor with Consumer Reports. Thank you for the opportunity to share what we've found about algorithmic and data-driven pricing in the grocery sector. I have some prepared remarks and can share these with the committee members.

Consumer Reports is an independent nonprofit founded in 1936 that now counts more than 5 million members. It has a unique structure, with a team focused on public-interest journalism and a policy side focused on legislation. As journalists, we do not advocate for any particular policy position and abide by independent reporting standards.

Algorithmic pricing is usually invisible to consumers, who typically see only the prices and fees they're offered. Researchers, meanwhile, are rarely granted access to the complex systems of algorithms, AI, and data that result in individualized prices. Consumer Reports' Instacart investigation involved orchestrating simultaneous online shopping sessions with 437 volunteers to peek inside Instacart's pricing software.

We spent last year investigating how algorithmic pricing can affect what Americans pay for groceries. In our study of Instacart, we found that about 75% of the products we checked were offered at different prices to different customers as part of the tech company's long-running, AI-enabled price experiments. We found evidence of these experiments across the U.S., including in Pennsylvania, and at some of the nation's biggest grocery retailers, including Albertsons, Costco, Kroger, Safeway, Sprouts Farmers Market, and Target.

Some products, including Cheerios cereal, Ruffles potato chips, Lucerne eggs, Skippy peanut butter, Wheat Thins crackers, and Oscar Mayer turkey, were offered at up to five different price points. We found price variations as high as 23%, or $2.56 per item. At one Safeway store, for example, we found that the same identical basket of groceries was being offered at five different prices, ranging from $114.34 to $123.93. The resulting 8.4% price difference between the cheapest and most expensive baskets could have a big impact on household food budgets. Based on how much Instacart says the typical household of four spends on groceries, the average price variations we observed could translate into a cost difference of about $1,200 per year.

What we found was not an isolated event. In our testing, every single shopper using the Instacart app was an unwitting participant in the company's pricing experiments. None of the volunteers we spoke to had any idea Instacart was running these algorithmic tests. When we told them, they repeatedly referred to the practice "unfair" and "manipulative."

In response to our investigation, Instacart confirmed that our findings accurately reflected its pricing experiments and strategies with 10 partnering grocery retailers but denies that it uses any personal or demographic data in setting prices. Rather, Instacart says customers are randomly assigned to price testing groups by product category and location.

But Instacart acknowledges that food brands may use behavioral data for discounts or promotional offers through its pricing software. We also found that Instacart has obtained customers' personal data from two of the largest data brokers in the U.S., Acxiom and Epsilon.

In response to our investigation, more than a dozen members of Congress wrote to Instacart and the Federal Trade Commission, demanding answers. Three U.S. senators have sponsored legislation, called the "One Fair Price Act," that would ban certain types of individualized pricing. At last count, eight federal bills and more than 50 state bills across more than 25 states now target algorithmic pricing, surveillance pricing, dynamic pricing, and related practices. Bills and memos in New York, New Jersey, Maryland, and Pennsylvania cite the Instacart investigation by name. Subsequently, the FTC has launched an investigation into Instacart's pricing practices, with a civil investigative demand, calling our findings "disturbing," and the New York Attorney General's Office launched its own probe in January, noting New York's Algorithmic Pricing Disclosure Act and warning that the company that the office has "some concerns about Instacart's attempts to comply" with that law. California launched its own investigative sweep in late January.

After two weeks of blowback from customers and regulators, Instacart announced on Dec. 22 that it would end its pricing experiments, saying in a statement that "those tests raised concerns, leaving some people questioning the prices they see on Instacart. That's not okay—especially for a company built on trust, transparency, and affordability." But Instacart told us it would still allow its partners—grocery retailers and food brands—to test different types of promotions and discounts on their customers through the platform, calling such tests an "industry standard practice, both online and in-store."

Thank you for the opportunity to share our findings. I will include links to our investigation and research.

Our investigation:
https://www.consumerreports.org/money/questionable-business-practices/instacart-ai-pricing-experiment-inflating-grocery-bills-a1142182490/

Our study: https://groundworkcollaborative.org/work/instacart/

Our follow-up story:
https://www.consumerreports.org/money/questionable-business-practices/instacart-stops-ai-pricing-experiments-a1176475852/

Testimony of George Slover
Center for Democracy & Technology

Dynamic Pricing

Joint Hearing Before

Pennsylvania House Majority Policy Committee
and
Pennsylvania Senate Democratic Policy Committee

March 4, 2026

Chairman Bizzarro, Chair Miller, and other Members of the two Policy Committees –

I appreciate the opportunity to testify on behalf of the Center for Democracy & Technology on the issues implicated in dynamic pricing, and in particular the use of a consumer's personal information to set a customized price for that consumer.

CDT is a nonprofit, nonpartisan organization that works to advance civil rights and civil liberties in the digital age, for everyone. A key part of that mission, since our founding 30 years ago, when the internet was still in its infancy, is working to

protect consumers against invasion of their privacy, and misuse of their private personal information, to exploit them or discriminate against them.

The digital collection, sorting, processing, and selling of vast amounts of this private personal information – unbounded by any comprehensive data privacy law – has enabled businesses, and data brokers who serve them, to create intimate portraits of individual consumers, which can be used to "size them up" for their susceptibility to pay more – without their knowledge, let alone their consent.

Sellers can now access personal data including the consumer's previous purchases and searches; income, assets, debts, and financial condition and history; personal and family life; employment, work life, and career history; political, social, and other activities the consumer and the consumer's family members and friends have engaged in; web-browsing and social media history; and broadly, anything about the consumer recorded or tracked and fed into the big data maw.

This "surveillance pricing" – what we refer to as "bespoke pricing," as the price is "tailor fitted" to the individual consumer, made to measure[1] – is a rank abandonment of the transparent "list price" approach that has served consumers well for 150 years, and has justified free enterprise as best benefitting consumers and the economy. And it is a betrayal of the touted promise of the internet as a boon for shoppers. It exploits a stark information advantage that sellers using online technology can wield over consumers. It risks reducing what economists refer to as "consumer surplus" – the benefit received by consumers who would have been willing to pay more than the list price, but don't have to, because they aren't being algorithmically tagged and profiled – to zero.

That's Adam Smith's "invisible hand" being turned against consumers, picking their pocket.

Any claim that sellers would use bespoke pricing primarily to benefit their consumers is simply not credible. They are in business to make a profit. Their incentives for obscuring the market price work in the direction of *increasing* the price for consumers identified as gullible, desperate, or otherwise susceptible to

[1] Slover, Bespoke Pricing – What Is the Invisible Hand Up To?, CDT, Sept. 24, 2024, https://cdt.org/insights/bespoke-pricing-what-is-the-invisible-hand-up-to/.

being overcharged. Because consumers will be kept in the dark, they are far more apt to be taken advantage of than to benefit.

The technology is readily available to sellers, and is becoming easier to use and more powerful with the advance of artificial intelligence. The temptation to use it will be irresistible. We need to rein it in before it becomes a widespread feature of online commerce – to ensure that the online marketplace works in the interest of consumers.

We would recommend that any legislation carefully distinguish exploitative bespoke pricing from the kinds of discounting offered transparently and uniformly to identified groups – reining in the former while permitting the latter.

Thank you.

George Slover
Center for Democracy & Technology, Senior Counsel for Competition Policy

George Slover is Senior Counsel for Competition Policy at CDT, and CDT's General Counsel.

George comes to CDT with three decades of antitrust and competition policy experience, most recently as Senior Policy Counsel at Consumer Reports. Earlier in his career, he was Lead Antitrust Counsel at the House Judiciary Committee, Attorney-Advisor for Legal Policy at the Justice Department's Antitrust Division, Advisor to the Antitrust Modernization Commission, and Chief Legislative Counsel and Parliamentarian at the House Judiciary Committee. He is a member of the American Antitrust Institute's Advisory Board, and an elected member of the American Law Institute.

George holds a BA in mathematics from Vanderbilt University, a JD from the University of Texas School of Law, and a Masters in Public Affairs from the LBJ School.

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March 3, 2026

The Honorable Nick Miller
Chair
Senate Policy Committee
Pennsylvania Senate
352 Main Capitol
Harrisburg, PA 17120

The Honorable Ryan Bizzarro
Chair
House Policy Committee
Pennsylvania House of Reps.
116 Main Capitol
Harrisburg, PA 17120

RE: Dynamic Pricing

Dear Chair Miller and Chair Bizzarro and Members of the Committee,

On behalf of TechNet, I'm writing to share comments on dynamic pricing.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes 103 dynamic American businesses ranging from startups to the most iconic companies on the planet and represents five million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

TechNet recognizes that automated decision systems raise complex and evolving policy questions, and our member companies are committed to providing a positive customer experience that is transparent. We do not condone any targeting of consumers based on factors such as religion, race, sexuality, or political affiliation. While TechNet supports the goal of ensuring Pennsylvania consumers are treated fairly and without discrimination, we respectfully urge these committees to carefully consider the potential unintended consequences of overly broad regulations in this space.

Dynamic Pricing Delivers Meaningful Benefits to Consumers
Many data-driven pricing tools have been used responsibly for years to support marketing, pricing, and other business practices that enhance the consumer experience and competitiveness. Customers benefit from the use of dynamic pricing in a variety of ways. Dynamic pricing offers unique deals and promotions that are tailored based on a customer's interest and buying habits, and our member companies use this data to build features that provide customers discounted coupons and early access to deals. Regionalized offers based on customers' location encourage competitive pricing in the area. Targeted marketing via emails and advertisements are customized to highlight promotions and offers most likely to

appeal to each individual customer. Streamlined ordering also makes it easier for consumers to reorder frequently purchased items at lower prices.

Overly Broad Regulation Would Harm Consumers and Businesses
TechNet is concerned that legislation with overly broad definitions of prohibited pricing practices could inadvertently harm the very consumers it intends to protect. Examples of beneficial practices that could be jeopardized include:

- Geographic Pricing Flexibility: Businesses may set prices differently for customers who are harder to reach, such as those in remote areas, to account for higher logistics costs. Restricting this practice could result in either higher prices for all consumers or reduced service availability in underserved communities.
- Consumer-Specific Transactions: Lending transactions and insurance rates are inherently based on a consumer's unique information and financial profile. Broadly restricting the use of such information could disrupt these essential financial services.
- Discounts and Promotions: Businesses use customer data to generate discounts and promotions that benefit consumers. Discounts offered because of interest in similar products incentivize frequent purchasers to try new products. "Win-back" discounts target former customers with discounted prices to encourage them to return. Customer care discounts allow companies to reimburse or compensate customers for service or product issues. Each of these common, consumer-friendly practices could be inadvertently restricted by overly broad legislation.

Other States Have Proceeded Cautiously
States across the country have been carefully studying how to balance innovation with consumer protection. The difficulty of getting this right has been demonstrated in other states, where similar proposals were ultimately withdrawn or rejected on a bipartisan basis after months of deliberation. Last year in California, lawmakers attempted to move AB 446, legislation addressing similar concerns; however, there was significant opposition from the business and technology industries, and the final version was substantially narrowed. Ultimately, the bill sponsor withdrew the legislation due to overwhelming concerns from industry. In Virginia this year, lawmakers rejected HB 121, another pricing proposal. We encourage Pennsylvania to learn from these experiences and engage stakeholders in a thorough dialogue before advancing any legislation.

Conclusion
TechNet appreciates the committees' interest in exploring these important issues and welcomes the opportunity to continue engaging with policymakers on this topic. We share the goal of ensuring Pennsylvania consumers are treated fairly and encourage a measured approach that protects consumers while preserving the legitimate, beneficial pricing practices that serve them. We respectfully urge the committees to carefully consider the full range of consequences before advancing any legislative proposals.

Thank you for allowing us to share our perspective. Please do not hesitate to reach out with any questions.

Sincerely,

Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic