



February 18, 2025

Chair Rebecca Bauer-Kahan
Vice Chair Diane B. Dixon
Privacy and Consumer Protection Committee
1020 N Street, Room 162
Sacramento, CA 95814

Dear Chair Bauer-Kahan and Vice Chair Dixon,

The undersigned organizations write to express our support for A.B. 446, which aims to protect consumer privacy and prevent unfair pricing practices by stopping surveillance pricing. Surveillance pricing occurs when businesses adjust the prices of products based on the personal information of consumers, such as their online behavior, location, or purchasing history. This results in consumers being charged different prices by the same business for the same exact product, a practice that not only infringes upon individual privacy, but also leads to unfair and discriminatory pricing.

For example, companies like Orbitz charged Mac users more for hotel bookings, because it had data telling them Mac users spend more money than non-Mac users. Hotel booking sites charged people in certain ZIP codes more money to stay at hotels than other ones across the country. In one example, a person in the Bay Area was charged by Hotels.com \$80 more to stay in a New York City hotel than someone browsing for the same room in Kansas City. Lyft charged a customer \$5 more for a ride than another customer, despite the rides being identical in origin, destination, distance and route traveled. It's unclear why.

But what is clear is that surveillance pricing is not about supply and demand. It's about you.

Recently, a study by the Federal Trade Commission (FTC) validated much of our fears. It revealed that retailers deeply scrutinize and use personal information to set targeted, tailored prices for goods and services—from a person's location and demographics down to their scrolling movements on a webpage.

Among some of the hypotheticals the FTC study gave included consumers profiled as new parents and charged higher prices as a result. An e-commerce platform could know that the parent prefers fast delivery of baby formula, infer the consumer is less sensitive to higher prices because they are in a rush, and charge them more. This could then result in said parent seeing higher prices for several baby-related products on the first page of their feeds, like baby thermometers, “based on their residential zip code and time of purchase.”

The study examined documents it obtained from a handful for large companies, including Mastercard and the corporate consulting firm McKinsey. These companies work with at least 250 clients, ranging from grocery stores to apparel retailers to travel, health, and financial service

companies. And these corporate consultants have been pushing for it. “Personalized pricing strategies, once considered a futuristic concept, have become a cornerstone of modern business strategy,” said the [Cortado Group](#). McKinsey said, “Our experience shows that such transformations, when done well, can enhance pricing to generate two to seven percentage points of sustained margin improvement with initial benefits in as little as three to six months.”

What the FTC also determined is that widespread adoption of surveillance pricing might completely change how consumers buy things and how companies do business.

Unfortunately, the FTC shelved public comment into surveillance pricing, which makes the work of California legislators that much more important. A.B. 446 aims to address these concerns by prohibiting businesses from setting prices based on personally identifiable information gathered through electronic surveillance. The bill seeks to bar companies from using race, religion, residence, sexuality, political interests, web browsing and purchase history, financial circumstances, and consumer behaviors in setting prices. The bill also outlines civil penalties for violations, ensuring that consumers are protected from such practices.

With prices for essential goods such as groceries up [30 percent](#) since the beginning of the decade, and [Kroger’s plan](#) to roll out digital price tags and facial recognition technology, the time to act is now.

Plain and simple: Companies shouldn’t have to surveil us in order to sell products. Companies are sitting on mountains of personal data—much of it incorrect—that feed this digital auction of exploitation and e-commerce algorithms. By supporting A.B. 446, you can put California on the road to being the first state in the country to address surveillance pricing. AB 446 demonstrates a commitment to consumer rights and privacy, ensuring that all Californians are treated fairly in the marketplace. One product, one price.

Sincerely,

Erin Witte
Director of Consumer Protection
Consumer Federation of America

Justin Kloczko
Privacy Advocate
Consumer Watchdog

Catarina Fitzgerald
Deputy Director
EPIC

Emory Roane
Associate Director of Policy
Privacy Rights Clearinghouse