



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 measure¹ – 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.

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/>.

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 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.