

Summary by Bloomberg AI

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- Airlines, grocery stores, and ride-share apps are preparing to defend their pricing practices in front of Congress due to concerns over surveillance pricing.
- Companies like Kroger Co., Albertsons Cos. Inc., Uber Technologies Inc., and Walmart Inc. have started lobbying on personalized pricing issues and legislation, and are pushing out educational content and meeting with policymakers.
- Attorneys are advising companies to document their business rationale for using consumer data to inform prices, as the stakes are high and the answers they give lawmakers and regulators could fuel litigation, legislation, and investigations.

Airlines, grocery stores, and ride-share apps are gearing up to defend their pricing practices in front of an increasingly wary Congress.

More than 30 companies have been targeted by lawmakers this year over surveillance pricing: When companies use personal information about consumers – their location, shopping habits, or demographics – to set personalized prices. More are likely to get drawn into Washington’s crosshairs as surveillance pricing shifts from a privacy issue to a popular political talking point this election year.

Industry giants like Kroger Co., Albertsons Cos. Inc., Uber Technologies Inc., and Walmart Inc. started lobbying on personalized pricing issues and legislation, according to lobbying disclosures. Groups representing retailers and online platforms like NetChoice say they’re also pushing out educational content, meeting with policymakers, and ramping up lobbying to counter the growing narrative in Washington that data-driven pricing is costing consumers money.

Sen. Josh Hawley (R-Mo.), chairman of the Senate Judiciary Subcommittee on Crime and Counterterrorism, warned earlier this month of a “partnership between the AI industry and some of the biggest corporations in America to effectively scam consumers out of every last dollar they have in order to buy products that they need and rely on.”

Concerns cut across party lines, with Rep. Frank Pallone (D-N.J.), ranking member of the House Energy and Commerce Committee, and Sen. Mike Lee (R-Utah) also raising questions.

Companies should document their business rationale for what data they use and how it informs prices, attorneys said. The stakes are high as the answers they'll give lawmakers and regulators over the next months could fuel follow-on litigation, legislation, state attorneys' general investigations, and push-back from consumer groups.

"While you still have time before you are under the public eye, really scrutinizing those policies and practices with an eye towards, 'If this is made public, would we become the case study for a law being generated or drafted?'" said Marcus Childress, co-leader of Akin Gump's congressional investigations practice and former senior adviser on the House Judiciary Committee.

Bipartisan Pressure

Retailers and digital platforms collect consumer data from many sources and use it to infer information about shoppers, such as their health conditions or relationship status to determine their willingness to pay for a product, Robert Hedges, digital fellow at the MIT Initiative on the Digital Economy and former adviser for data and strategy at Visa Inc, said at a hearing on the issue.

If shoppers knew data was being collected "to be used in pricing models that sought to maximize retailers' profitability, the consumer would most certainly say 'No,' which is probably why consumers are never asked," he said.

Pallone teed up two inquiries in the last three months about the data-driven practices of retailers including Albertsons, CVS Health Corp., and Target Corp., and airlines including American Airlines Group Inc. and United Airlines. Lee asked similar questions to ride-share apps Uber and Lyft Inc. in July.

[Read More: Surveillance Pricing by Airlines Probed by House Democrats](#)

Those questions stand in the gaps left by the Federal Trade Commission's retreat.

The agency under Lina Khan in 2024 conducted a study that found consumers' precise location or browser history was frequently used to target them with different prices for the same goods and services. The FTC under Chairman Andrew Ferguson abandoned these efforts.

Now that the practice is gaining renewed, bipartisan scrutiny, companies' strategies will have to adapt.

"It does change how you approach an inquiry when you know that there's going to be support on both sides of the aisle to get that information," said Abigail Kohlman, co-head of Akin Gump's congressional investigations practice and former chief of staff at the Justice Department. "It's not something that you can point out, 'Oh, this is politics, this is partisan,' and try to get out of it in the same kind of fashion."

JetBlue, Lyft, and Kroger said in statements they don't engage in surveillance pricing. Airlines for America, which represents American Airlines, Southwest Airlines, and United Airlines, said its members don't use consumers' information to set personalized prices.

Still, attorneys say they're advising grocery stores, airlines, delivery and ride-share apps to brief staffers and make their case. They should document the business justification for their pricing decisions and evaluate contracts with vendors that help set their prices.

"The first question is really, can you explain whether two consumers are seeing different prices? And if so, why?" said Benjamin Genn, partner at Holland & Knight LLP. "If the answer is inventory, geography, cost, supply-demand, then that's one conversation. If the answer is some use of personal data or using the consumer's inferred willingness to pay, then that's a very different risk profile that the company needs to drill down into."

Legal Momentum

States stepped up this year to rein in surveillance pricing. About 50 bills were introduced, and New Jersey, Maryland, and Connecticut banned the practice.

Even states without bespoke laws ramped up their efforts. California Attorney General Rob Bonta launched a probe in January into the retail, grocery, and hotel sectors under the state's privacy law.

"There's the legal momentum behind this, which is the states putting in these operative restrictions. And then you also have political momentum in Washington, which is touching on affordability, privacy, AI governance and accountability," Genn said. "I don't think this is going anywhere regardless of if the House flips or who's in power."

Trade groups like NetChoice, which counts Amazon, Airbnb Inc., and Etsy Inc. as members, and the National Retail Federation, along with companies including Kroger, say restricting retailers' ability to set personalized prices could hurt discounts and loyalty programs.

Amy Bos, vice president of the NetChoice's government affairs, said the group plans to ramp up lobbying to make sure "lawmakers understand the benefits" of personalized pricing and "legislation is narrowly drafted."

"We've only just started," she said. "I fully expect going into 2027, we will definitely be doubling up on our efforts."

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