

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
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WASHINGTON, DC 20515-6143

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<https://oversight.house.gov>

March 5, 2026

Mr. Chris Rogers  
Chief Executive Officer  
Instacart  
50 Beale Street, Suite 600  
San Francisco, CA 94105

Dear Mr. Rogers:

The Committee on Oversight and Government Reform is examining the increased use of artificial intelligence and consumer data for setting prices. Specifically, we are examining the use of artificial intelligence to conduct surveillance pricing of consumers that artificially increases the prices of goods and services.<sup>1</sup> Surveillance pricing refers to pricing practices in which a company uses consumer data to create a “profile” based on individualized data such as geolocation, demographics, browsing history, purchase history, device type, battery life, and even mouse clicks<sup>2</sup> to assign different prices to different individuals in ways the consumer cannot understand, anticipate, or control. A recent report indicates Instacart deploys AI-based pricing technology that “price identical products differently from one customer to the next – sometimes by as much as 23 percent.”<sup>3</sup> The Committee therefore requests documents and information to better understand the policies guiding your company’s pricing practices.

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<sup>1</sup> Robert Silk, *ATPCO aims to help airlines do more dynamic pricing*, TRAVEL WEEKLY (Apr. 12, 2024), available at <https://www.travelweekly.com/Travel-News/Airline-News/ATPCO-dynamic-pricing-initiatives> (“At present 258 carriers do at least some dynamic pricing, up from 220 in the fall of 2022 . . .”); Justin Kloczko, *New Report Details How Companies Use Surveillance to Charge Different Prices for the Same Item*, CONSUMER WATCHDOG (Dec. 17, 2024), available at <https://consumerwatchdog.org/privacy/new-report-details-how-companies-use-surveillance-to-charge-different-prices-for-the-same-item/> (“Orbitz learned that Mac users spend more money to stay at hotels and charged them more than non-Mac users.”).

<sup>2</sup> Press Release, Federal Trade Commission, *FTC Surveillance Pricing Study Indicates Wide Range of Personal Data Used to Set Individualized Consumer Prices* (Jan. 17, 2025); Dana Mattioli, *On Orbitz, Mac Users Steered to Pricier Hotels*, WALL ST. J. (Aug. 23, 2012); Justin Kloczko, *Surveillance Price Gouging*, CONSUMER WATCHDOG (Dec. 16, 2024), available at <https://consumerwatchdog.org/wp-content/uploads/2024/12/Surveillance-Price-Gouging.pdf>, at 1; Kyle Potter, *Exclusive: US Airlines Are Quietly Hitting Solo & Biz Travelers with Higher Fares*, THRIFTY TRAVELER (May 29, 2025), available at <https://thriftytraveler.com/news/airlines/airlines-charging-solo-travelers-higher-fares/>.

<sup>3</sup> Derek Kravitz, *Instacart’s AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds*, CONSUMER REPORTS (updated Dec. 9, 2025), available at <https://www.consumerreports.org/money/questionable-business-practices/instacart-ai-pricing-experiment-inflating-grocery-bills-a1142182490/>.

Instacart is a widely-used e-commerce grocery delivery platform in North America providing a service valued by seniors, those living in rural areas, and those with disabilities.<sup>4</sup> Instacart has been transitioning from a company that delivers groceries to one that provides a range of digital tools, including pricing software, that is sold to retail companies to “optimize” grocery prices.<sup>5</sup> In addition, Instacart utilizes consumer personal data collected from two of the largest data brokers in the United States: Acxiom and Epsilon.”<sup>6</sup>

Companies utilizing surveillance pricing deploy algorithms in conjunction with “harvested” personal data to determine a consumer’s emotional state, purchase intent, maximum willingness to pay (or so-called “pain point”) and an individualized price is tailored accordingly.<sup>7</sup> Often this takes place in a “black box” environment where consumers do not know that personalized pricing is taking place or what information collected about them are driving prices.<sup>8</sup> Surveillance pricing can be difficult to detect because consumers rarely have a view into what information a company has about them, what the prices they see are based on, or what prices other customers may be seeing for the same goods or services - making it difficult for consumers to make informed purchasing decisions.<sup>9</sup>

The deployment of algorithmic tools marketed to consumer-facing companies ensures that prices are coordinated<sup>10</sup> which could amount to implicit collusion to raise prices overall and may warrant further scrutiny under the Sherman Act.<sup>11</sup> Section 1 of the Sherman Act prohibits agreements to limit competition on price and an agreement may violate the Sherman Act even if it results from competitors not directly communicating about pricing, including through the

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> David Dayen, *The Emerging Danger of Surveillance Pricing*, JACOBIN (July 9, 2024), available at <https://jacobin.com/2024/07/surveillance-personalized-pricing-data-collection>; FED. TRADE COMM’N, FTC SURVEILLANCE PRICING 6(B): RESEARCH SUMMARIES A STAFF PERSPECTIVE (Jan. 2025), available at [https://www.ftc.gov/system/files/ftc\\_gov/pdf/p246202\\_surveillancepricing6bstudy\\_researchsummaries\\_redacted.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf); Charles Duhigg, *How Companies Learn Your Secrets*, N.Y. TIMES MAGAZINE (Feb. 16, 2012).

<sup>8</sup> Emilio Calvano, *et al.*, *Artificial Intelligence, Algorithmic Pricing, and Collusion*, 110 J. AM. ECON. REV. 10 (Oct. 2020), at 3294; *See FTC Issue Spotlight: The Rise of Surveillance Pricing*, FED. TRADE COMM’N (Jan. 17, 2025), available at [https://www.ftc.gov/system/files/ftc\\_gov/pdf/sp6b-issue-spotlight.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/sp6b-issue-spotlight.pdf).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 14 (“Multiple sellers agreeing to rely on the same algorithm to make pricing decisions or to provide competitively-sensitive, non-public information to a common third-party provider of pricing services may constitute an anticompetitive agreement to coordinate prices or exchange information.”); Press Release, Federal Trade Commission, FTC and DOJ File Statement of Interest in Hotel Room Algorithmic Price-Fixing Case (Mar. 28, 2024).

<sup>11</sup> Sherman Antitrust Act of 1890, Pub. L. No. 51-647, 26 Stat. 209 (1890) (codified at 15 U.S.C. §§ 1–7); Cem Dilmegani, *Dynamic Pricing Algorithms: Top 3 Models*, AI MULTIPLE, available at <https://research.aimultiple.com/dynamic-pricing-algorithm/>; Kyle Wiggers, *Fetcherr Lands \$90M to get airlines on board with dynamic pricing*, TECH CRUNCH (June 26, 2024), available at <https://techcrunch.com/2024/06/26/fetcherr-lands-90m-to-get-airlines-on-board-with-dynamic-pricing/> (“Dynamic pricing can also lead to what the Financial Times’ John Thornhill calls ‘implicit collusion’ between firms which raises prices overall”); *FTC Issue Spotlight: The Rise of Surveillance Pricing*, FED. TRADE COMM’N (Jan. 17, 2025), available at [https://www.ftc.gov/system/files/ftc\\_gov/pdf/sp6b-issue-spotlight.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/sp6b-issue-spotlight.pdf); Emilio Calvano, *et al.*, *Artificial Intelligence, Algorithmic Pricing, and Collusion*, 110 J. AM. ECON. REV. 10 (Oct. 2020).

coordinated use of algorithms.<sup>12</sup> Instacart reportedly deploys its algorithmic pricing tools with at least ten retail partners.<sup>13</sup> The lack of transparency about which retail partners utilize Instacart's algorithmic pricing tools raises concerns about tacit predatory pricing through "hub and spoke" collusion.<sup>14</sup>

To be clear, the Committee is supportive of the advancement and use of artificial intelligence tools that allow companies to align prices with demand fluctuations, consumer preferences, and operational costs to promote efficiency and greater market responsiveness.<sup>15</sup> However, the rise of surveillance pricing algorithms coupled with highly personalized consumer data may create arbitrage opportunities for companies to "weaponize personal data" and pad their profit margins at the expense of providing transparency to the consumer.<sup>16</sup>

To assist the Committee in its oversight of this matter, we request the following documents and information covering the time period from the initial implementation or consideration of such technologies through the present, as soon as possible, but no later than March 19, 2026:

1. All documents and communications detailing revenue management algorithms deployed for the purpose of setting prices for products/services to consumers, including but not limited to:
  - a. When implementation of revenue management algorithms began;
  - b. The financial impact of such revenue management algorithms including documents and communications that describe their impact on revenue, pricing, or profitability; and
  - c. Any algorithms discussed or considered for future use for the same purposes;
2. All documents and communications detailing the deployment of your company's revenue management algorithms at partner retailers to provide prices for the same product/service to consumers, including but not limited to:
  - a. Identifying all partner retailers;

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<sup>12</sup> See *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 222-23 (1940); see also Press Release, U.S. Dep't of Justice, Principal Deputy Assistant Attorney General Doha Mekki of the Antitrust Division Delivers Remarks at GCR Live: Law Leaders Global 2023 (Feb. 2, 2023) ("Where competitors adopt the same pricing algorithms, our concern is only heightened. Several studies have shown that these algorithms can lead to tacit or express collusion in the marketplace, potentially resulting in higher prices, or at a minimum, a softening of competition.").

<sup>13</sup> Derek Kravitz, *Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds*, CONSUMER REPORTS (updated Dec. 9, 2025), available at <https://www.consumerreports.org/money/questionable-business-practices/instacart-ai-pricing-experiment-inflating-grocery-bills-a1142182490/>.

<sup>14</sup> Chris K. Anderson & Fredrik Ødegaard, *The Perils of Algorithmic Pricing*, MIT SLOAN MGMT. REVIEW (Nov. 4, 2025), available at <https://sloanreview.mit.edu/article/the-perils-of-algorithmic-pricing/>.

<sup>15</sup> Aradhna Krishna, *In defense of 'surveillance pricing': Why personalized prices could be an unexpected force for equity*, THE CONVERSATION (Oct. 14, 2025), available at <https://theconversation.com/in-defense-of-surveillance-pricing-why-personalized-prices-could-be-an-unexpected-force-for-equity-266293>.

<sup>16</sup> Justin Kloczko, *Surveillance Price Gouging*, CONSUMER WATCHDOG (Dec. 16, 2024), available at <https://consumerwatchdog.org/wp-content/uploads/2024/12/Surveillance-Price-Gouging.pdf>, at 1 ("It's price gouging based on predictive behavior. Without more transparency, we don't know how far surveillance pricing goes.").

- b. When deployment of revenue management algorithms at partner retailers began;
  - c. The financial impact of such revenue management algorithms at partner retailers including documents and communications that describe their impact on revenue, pricing, or profitability; and
  - d. Any algorithms discussed or considered for future use for the same purposes.
3. All documents and communications detailing any experiments with your company's revenue management algorithms at non-partner retailers to provide prices for the same product/service to consumers, including but not limited to:
  - a. Identifying all non-partner retailers;
  - b. When any experiments with your company's revenue management algorithms at non-partner retailers began;
  - c. The financial impact of any experiments with your company's revenue management algorithms at non-partner retailers including documents and communications that describe their impact on revenue, pricing, or profitability; and
  - d. Any algorithms discussed or considered for future use for the same purposes.
4. All documents and communications detailing how consumer data is utilized in conjunction with any deployed revenue management algorithms to provide prices for the same product/service to consumers, including but not limited to:
  - a. Identifying data sources your company utilizes;
  - b. How such data sources are obtained;
  - c. Purposes for collecting such data sources; and
  - d. Other data inputs that have been discussed for potential future use;
5. All documents and communications detailing any use of a third-party organization to compile data sources including but not limited to the identity of the organization or intermediary from which they are obtained;
6. All documents and communication showing whether the data sources your company utilizes are bought or sold – directly or indirectly – to any competitors including but not limited to any internal analyses or assessments concerning the sharing, sale, or acquisition of such data with or from competitors;
7. All documents and communications describing the impact of consumer data on determining prices for the same product/service, including but not limited to analyses, presentations, or internal assessments that explain how consumer data influences pricing differences and how such pricing differences are internally justified; and,
8. All documents and communications sufficient to show whether the information underlying pricing differences is reasonably explainable and/or disclosed to consumers, including but not limited to detailed descriptions, visual materials, screenshots, mock-ups, or any other consumer-facing disclosures related to pricing.

Mr. Chris Rogers

March 5, 2026

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The Committee on Oversight and Government Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. To arrange for delivery of documents or to ask any related follow up questions, please contact the Committee on Oversight and Government Reform Majority staff at (202) 225-5074. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a horizontal line underneath it.

James Comer

Chairman

Committee on Oversight and Government Reform

cc: The Honorable Robert Garcia, Ranking Member  
Committee on Oversight and Government Reform