

June 17, 2026

New York City Council
Committee on Consumer and Worker Protection

Dear Chair Epstein and Members of the Committee,

Thank you for the opportunity to testify today in support of Int. No. 891, which will protect New Yorkers from the unfair and predatory business tactic of surveillance pricing. EPIC writes to convey a simple message: The exploitation of New Yorkers' personal information to set prices is unfair and should be banned.

EPIC is an independent nonprofit that was established in 1994 to secure the right to privacy in the digital age for all people.¹ We believe privacy is a fundamental human right. In my testimony, I will discuss how our lack of privacy protections has allowed data brokers to exploit our most sensitive information, which is now being fed directly into surveillance pricing algorithms. I'll also make two suggestions to strengthen Int. No. 891 and ensure it is enforceable.

Surveillance pricing is unfair to consumers.

Int. No. 891 bans surveillance pricing, a practice in which companies use troves of consumers' personal data to determine how much each individual is willing to pay for a good or service. Through surveillance pricing, companies can charge each customer a different amount for the exact same product. While retailers have always sought to charge the highest prices consumers will pay, surveillance pricing allows them to do so on an individual-by-individual basis.

Consumers rightfully expect to pay the same amount as their neighbors for the same product. They expect price variations to stem from market changes such as increased supply costs and shortages or surpluses. But today, retailers have access to enormous amounts of data on their customers, some of which they collect firsthand, and some of which they purchase from data brokers.² Data brokers gather information about us from every corner of our lives, from what route we took to work this morning to which ads we lingered on while scrolling.

Data brokers use that information to create individualized profiles of each of us, using hyper-specific and often disturbingly intimate identifiers to indicate our financial status, interests, politics, personalities, and more.³ Consumers are categorized as expectant mothers, retirees struggling financially, Buddhists with symptoms of depression, or tattooed introverts interested in weight loss, to name a few. The data brokers then sell those profiles to virtually anyone looking to buy.

¹ EPIC, *About Us*, <https://epic.org/about/>.

² FTC, *FTC Surveillance Pricing 6(b) Study: Research Summaries, A Staff Perspective 5* (2025), https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf.

³ Jon Keegan & Joel Eastwood, *From "Heavy Purchasers" of Pregnancy Tests to the Depression-Prone: We Found 650,000 Ways Advertisers Label You*, *The Markup* (June 8, 2023), <https://themarkup.org/privacy/2023/06/08/from-heavy-purchasers-of-pregnancy-tests-to-the-depression-prone-we-found-650000-ways-advertisers-label-you>.

Companies engaged in surveillance pricing purchase these detailed consumer profiles and feed them to an algorithm that can make real-time price adjustments in both brick-and-mortar stores and online. For example, an investigation into Instacart found that the platform conducted secret surveillance pricing experiments in grocery stores, varying the cost of goods by just tens of cents. These changes were difficult for consumers to detect but would have resulted in an average household’s annual grocery bills increasing by \$1,200.⁴

Surveillance pricing is inherently unfair, and EPIC commends the important steps Int. No. 891 takes to protect New Yorkers from this harmful practice. We do recommend that the Council further clarify the bill in a few key ways to ensure the strongest protections for New Yorkers.

The Council should remove the term “surveillance technology” to simplify enforcement.

EPIC recommends striking the phrase “collected through surveillance technology” from both places it appears in the bill’s definition of surveillance pricing. The bill is effective and sufficiently clear without this language that modifies the term “personal data,” and its removal eliminates the subsequent need to define “surveillance technology.” Making this change will also simplify enforcement by removing the burden of identifying surveillance technology.

Surveillance pricing. The term “surveillance pricing” means setting a price, fee, or discount for a good or service for a specific consumer or group of consumers that differs from the price, fee, or discount made available to other consumers for the same good or service based, in whole or in part, on personal data ~~collected through surveillance technology~~, including personal data ~~collected through surveillance technology~~ that is gathered, purchased, or otherwise acquired from a third party.

To ensure consumers can enforce their rights, the Council should add a private right of action.

EPIC recommends that the Council add a private right of action to Int. No. 891 to allow New Yorkers who have been harmed by surveillance pricing to ask a court to stop the practice and seek redress. These cases also help preserve the City’s resources and serve as a strong deterrent against engaging in surveillance pricing in the first place. We strongly encourage the Council to add a private right of action to Int. No. 891.

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EPIC urges the Committee to advance these bills to protect New Yorkers from the unfair practice of surveillance pricing. EPIC is happy to be a resource to the Committee as it continues to navigate this complex topic.

Sincerely,

/s/ Mayu Tobin-Miyaji
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/s/ Caroline Anders
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⁴ Derek Kravitz, *Instacart’s AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill*, CR and Groundwork Collaborative Investigation Finds, Consumer Reports (Dec. 9, 2025), <https://www.consumerreports.org/money/questionable-business-practices/instacart-ai-pricing-experiment-inflating-grocery-bills-a1142182490/>.