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Exclusive: FTC probes Instacart's AI pricing tool, source says; shares drop

By Jody Godoy

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A U.S. flag flutters at the Federal Trade Commission (FTC) headquarters in Washington, D.C., U.S., November 24, 2024. REUTERS/Benoit Tessier [Purchase Licensing Rights](#)

Summary Companies

Shares were down around 10% on the news

Grocery delivery platform facing criticism over AI tool

Study showed some shoppers got prices up to 23% higher

Instacart has said retailers set prices

Dec 17 (Reuters) - The U.S. Federal Trade Commission is probing Instacart ([CART.O](#)), two sources familiar with the matter told Reuters, as the retail platform faces criticism over its artificial intelligence-driven pricing tool.

Instacart shares were down about 10% in after-hours trading.

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The agency has sent the company a civil investigative demand, the sources said. The FTC is seeking information about Instacart's Eversight pricing tool, one of the sources said.

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The software, which allows retailers on Instacart to experiment with different prices using AI, drew criticism after a recent study showed different shoppers got different prices for the same groceries on Instacart.

"The Federal Trade Commission has a longstanding policy of not commenting on any potential or ongoing investigations. But, like so many Americans, we are disturbed by what we have read in the press about Instacart's alleged pricing practices," the FTC said in a statement.

The opening of a probe does not prove wrongdoing and not all FTC investigations result in lawsuits.

The FTC is taking on the issue of a company's use of technology to set prices at a time when the high cost of living in the U.S. has been a top daily concern for Americans. The issue of affordability helped Democrats win several state and local elections in November, becoming a major political headwind for President Donald Trump and his Republican party.

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SAME PRODUCT, DIFFERENT PRICE

A study involving 437 shoppers viewing Instacart prices in four cities saw wildly different prices for the same items sourced at the same stores. On average, there was a 7% difference in the total cost for the same grocery list at the same store, according to the study conducted by nonprofit groups Groundwork Collaborative, Consumer Reports, and More Perfect Union.

"Some shoppers found grocery prices that were up to 23% higher than prices available to other shoppers for the exact same items, in the exact same store, at the exact same time," the study's authors wrote.

Instacart's Eversight allows retailers to run price tests to gauge shoppers' reactions to higher or lower prices across different categories of items. Grocers who use Eversight see revenue growth of 1-3%, according to Instacart's website.

The pricing tests carried out through Eversight were randomized, unlike pricing practices based on fluctuating demand or a user's individual data and behaviors, Instacart said last week.

"This year, we've focused heavily on encouraging more retailers to move toward in-store and online price parity, working closely with partners to remove markups and align online prices with in-store," the company said in a blog post.

Instacart does not set prices for the items available on its platform, the company said at the time. With the exception of Target, retailers set the prices shoppers encounter, and Instacart provides the tools to

do so.




Target is not affiliated with Instacart and does not control the prices it sets, a spokesperson for the big box retailer said. Instead, Instacart scrapes publicly available Target prices and adds margin to cover its costs.

DIGITAL PRICING TACTICS FACE SCRUTINY

Some members of Congress criticised Instacart in the wake of the study.

"Consumers deserve to know when they are being placed into pricing tests. The FTC should require a prominent on-screen label," U.S. Senator Chuck Schumer, a Democrat from New York, said in a letter to the agency on Sunday.

The probe is not the first time for the FTC to delve into AI and data-driven pricing practices.

Last year, the FTC under Chair Lina Khan demanding information from Mastercard ([MA.N](#)) , JPMorgan Chase ([JPM.N](#)) , Accenture ([ACN.N](#)) , McKinsey & Co., and four other companies about tools they sell to other businesses to analyze data and set prices or tailor discounts.

Some of the tools help companies gauge what shoppers are willing to pay based on past purchases, location, and other data about online activity, the FTC staff wrote in a preliminary report in January.

The preliminary report led to concern among state lawmakers about how companies use technology to set prices, and some have sought to restrict practices they call unfair.

Reporting by Jody Godoy in New York; editing by Chris Sanders, David Gregorio and Stephen Coates

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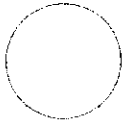
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Jody Godoy
Thomson Reuters

Jody Godoy reports on tech policy and antitrust enforcement, including how regulators are responding to the rise of AI. Reach her at jody.godoy@thomsonreuters.com



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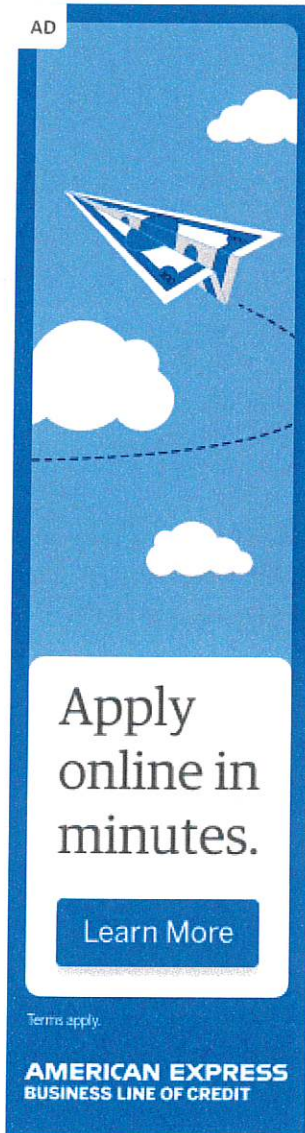
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FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

For Release

FTC Surveillance Pricing Study Indicates Wide Range of Personal Data Used to Set Individualized Consumer Prices

The agency details interim insights from staff perspective examining how companies track consumer behaviors to inform surveillance pricing

January 17, 2025



Tags: [Consumer Protection](#) | [Competition](#) | [Bureau of Consumer Protection](#) | [Technology](#) | [Privacy and Security](#) | [Consumer Privacy](#) | [Artificial Intelligence](#) | [Office of Technology](#)

The Federal Trade Commission's initial findings from its surveillance pricing market study revealed that details like a person's precise location or browser history can be frequently used to target individual consumers with different prices for the same goods and services.

The [staff perspective](#) is based on an examination of documents obtained by FTC staff's 6(b) orders sent to [several companies in July](#) aiming to better understand the shadowy market that third-party intermediaries use to set individualized prices for products and services based on consumers' characteristics and behaviors, like location, demographics, browsing patterns and shopping history.

Staff found that consumer behaviors ranging from mouse movements on a webpage to the type of products that consumers leave unpurchased in an online shopping cart can be tracked and used by retailers to tailor consumer pricing.

"Initial staff findings show that retailers frequently use people's personal information to set targeted, tailored prices for goods and services—from a person's location and demographics, down to their mouse movements on a webpage," said FTC Chair Lina M. Khan. "The FTC should continue to investigate surveillance pricing practices because Americans deserve to know how their private data

is being used to set the prices they pay and whether firms are charging different people different prices for the same good or service."

The FTC's study of the 6(b) documents is still ongoing. The staff perspective is based on an initial analysis of documents provided by Mastercard, Accenture, PROS, Bloomreach, Revionics and McKinsey & Co.

What Goes into Surveillance Pricing?



What's the price of X? → What's the price of X for consumer C through channel Z at location L at time T?

Price is increasingly multi-dimensional:

- ▶ Price targeting tools can be used to make pricing recommendation changes at different frequencies — from minutes to monthly.
- ▶ Different people can get different prices. Companies can determine prices for different locations, stores, customers, up to and including individual transactions.
- ▶ Companies can pursue price complexity and scale with fewer resources.

Source: Federal Trade Commission



The FTC's 6(b) study focuses on intermediary firms, which are the middlemen hired by retailers that can algorithmically tweak and target their prices. Instead of a price or promotion being a static feature of a product, the same product could have a different price or promotion based on a variety of inputs

—including consumer-related data and their behaviors and preferences, the location, time, and channels by which a consumer buys the product, according to the perspective.

The agency will only release information obtained from a 6(b) study as long as all data has been aggregated or anonymized to protect confidential trade secrets from company respondents, and therefore the staff perspective only includes hypothetical examples of surveillance pricing.

The staff perspective found that some 6(b) respondents can determine individualized and different pricing and discounts based on granular consumer data, like a cosmetics company targeting promotions to specific skin types and skin tones. The perspective also found that the intermediaries the FTC examined can show higher priced products based on consumers' search and purchase activity. As one hypothetical outlined, a consumer who is profiled as a new parent may intentionally be shown higher priced baby thermometers on the first page of their search results.

The FTC staff found that the intermediaries worked with at least 250 clients that sell goods or services ranging from grocery stores to apparel retailers. The FTC found that widespread adoption of this practice may fundamentally upend how consumers buy products and how companies compete.

As the FTC continues its work in this area, it is issuing a [request for information](#) today seeking public comment on consumers' experiences with surveillance pricing. The RFI also asks for comments from businesses about whether surveillance pricing tools can lead to competitors gaining an unfair advantage, and whether gig workers or employees have been impacted by the use of surveillance pricing to determine their compensation. Comments are due by April 17.

The Commission voted 3-2 to allow staff to issue the report. Commissioners Andrew Ferguson and Melissa Holyoak [issued a dissenting statement](#) related to the release of the initial research summaries.

The FTC has additional resources on the interim findings, including a [blog post](#) advocating for further engagement with this issue, [an issue spotlight](#) with more background and research on surveillance pricing and [research summaries](#) based on the staff review and initial insights of 6(b) study documents.

The Federal Trade Commission works to [promote competition](#), and [protect and educate consumers](#). The FTC will never demand money, make threats, tell you to transfer money, or promise you a prize. You can [learn more about consumer topics](#) and report scams, fraud, and bad business practices

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Contact Information

Media Contact

[Rebecca Kern](#)

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