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The Honorable Senator Pamela Beidle, Chair
The Honorable Senator Antonio Hayes, Vice Chair
Senate Finance Committee
Maryland General Assembly
Annapolis, MD 21401

Re: Opposed SB889 – Consumer Protection and Labor and Employment - Electronic Shelving Labels and Surveillance-Based Price and Wage Setting - Prohibitions

Dear Chair Beidle, Vice Chair Hayes, and distinguished members of the Senate Finance Committee.

Thank you for the opportunity to submit comments related to SB889 – Consumer Protection and Labor and Employment - Electronic Shelving Labels and Surveillance-Based Price and Wage Setting - Prohibitions. Uber supports the intent of SB889 — ensuring that residents of Maryland are treated fairly and are protected from discrimination or manipulation in pricing. While we share these values and support legislation that explicitly prohibits discriminatory practices, we must respectfully urge an unfavorable report on this specific bill.

At Uber, technology and data are at the core of our business. We use dynamic and algorithmic pricing models to efficiently match supply and demand, ensuring that riders can get a trip when they need one and that drivers can maximize their earning opportunities. These innovations have expanded access to transportation and economic opportunity for millions of people, while helping small businesses reach customers and sustain demand. But importantly, these core pricing models are not personalized - they generate price based on market dynamics, not on who the user is. Uber does **not** use a person's identity, personal characteristics, or the type of device they use to determine prices.

As currently written, SB889 risks going much further than intended by conflating discriminatory pricing (which should be banned) with dynamic market balancing (which is essential for reliability). The bill's broad and vague definitions could unintentionally restrict the use of dynamic, data-driven pricing tools that are critical to maintaining a functional marketplace, tools that benefit both drivers and riders, as well as small businesses and consumers. For Uber, this could mean increased wait times, stranded riders during peak hours, and reduced earnings for drivers.

Flexible Pricing Balances Supply and Demand

Dynamic pricing is essential to keeping the marketplace efficient and reliable. By responding to real-time supply and demand, this model helps ensure that riders can find a trip quickly even during periods of high demand, and that drivers are fairly compensated for providing their time and service.

When Nevada tried to cap surge pricing during the COVID-19 pandemic, passengers at airports were stranded because there weren't enough drivers willing to take trips under the restricted pricing model. The governor ultimately had to rescind the rule because it harmed both riders and drivers.

If Maryland were to limit or effectively ban dynamic pricing through the broad language in SB889, drivers' earnings would decline, wait times would increase, and availability would drop, particularly during major events like Music Festivals, the 50th Anniversary AFRAM, NFL Draft, or college championships hosted in the state.

No U.S. state has ever permanently banned surge or dynamic pricing, because the result is always the same: fewer rides, longer waits, and lower driver pay.

Using Basic Operational Data Is Necessary for Safe, Fair, and Functional Pricing

Restricting the use of operational data—such as pickup location, destination, or real-time traffic conditions—in pricing would have sweeping consequences that go far beyond dynamic pricing. These data points do not track individual consumer characteristics or behaviors; they are fundamental inputs required to run a transportation marketplace safely, efficiently, and fairly.

Pricing that accounts for location is critical for several reasons:

1. A Location-Blind Pricing Model Would Be Less Fair to Riders

Location-agnostic pricing sounds protective, but in practice it forces companies to average everyone's costs together. That means riders who take short, low-cost trips end up subsidizing higher-cost trips. Riders in rural, suburban, or lower-density areas—who already face challenges accessing transportation—would be hit especially hard if prices have to be raised across the board to compensate for the inability to tailor prices.

2. Drivers Depend on Accurate, Location-Aware Pricing to Be Paid Fairly

Drivers choose which trips to accept based on whether the price reflects the actual time and effort required. A law that prohibits the use of location in pricing would cause drivers to face more “underpriced” trips, encouraging them to cancel or avoid certain areas entirely. That reduces reliability for riders and reduces earnings opportunities for drivers.

Impact on Small Businesses and Local Innovation

Small, independent businesses, especially restaurants and retailers that use delivery platforms, rely on data-driven tools to offer discounts and promotions to loyal customers.

Under SB889, those common-sense practices could become unlawful if discounts are considered “differential pricing” based on past purchasing behavior. The result: fewer promotions, fewer sales, and less business for local entrepreneurs.

While large corporations may have the resources to navigate complex compliance frameworks, Maryland businesses would not.

Impact on Competition, Innovation, and Consumer Choice

By broadly restricting algorithmic pricing or data-informed offers, SB889 would also prevent companies from providing special discounts, running loyalty programs, or offering regional promotions — all of which benefit consumers and foster competition.

The loss of these low-risk, pro-consumer tools would harm innovation and limit consumer choice. Regulation should distinguish these low-risk, pro-consumer tools from discriminatory practices.

Better Ways to Protect Consumers

We agree that consumers should be protected from discriminatory or exploitative pricing. But rather than banning all data-informed pricing, we urge lawmakers to consider more targeted approaches.

Specifically, Maryland could:

- **Prohibit Discriminatory Inputs, Not Market Mechanics.** Legislation should explicitly prohibit the use of immutable personal characteristics such as race, gender, or religion, in pricing decisions. We support this ban unequivocally.
- **Ensure Workable Transparency Standards.** We support providing users with clear, understandable insights into how their data is used, consistent with global transparency and privacy principles. However, mandates must be compatible with the user experience. Overly prescriptive rules (e.g., forcing disclaimers to be in-app) are onerous, overly prescriptive, and degrade the user experience without providing much benefit to the user.
- **Align with Existing Privacy Frameworks.** Coordinate with existing privacy frameworks to avoid creating fragmented, state-specific rules that increase costs and complexity without improving outcomes or transparency for consumers.

Uber appreciates the opportunity to share our perspective on SB889. We support the underlying goal of fairness and transparency in pricing. However, banning tools that balance supply and demand and empower small businesses will only result in a more expensive, less reliable service that would harm consumers, drivers, and small businesses alike. We welcome the opportunity to work with lawmakers to refine this legislation so that it protects consumers while preserving the benefits of pro-consumer innovations like dynamic pricing.

Sincerely,
LaVita Gardner
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