CENTER FOR DEMOCRACY & TECHNOLOGY

Testimony of George Slover
Center for Democracy & Technology

SB 387 – Protection from Predatory Pricing Act

Maryland Senate Finance Committee

February 17, 2026

Chair Beidle and Members of the Committee –

I appreciate the opportunity to testify on behalf of the Center for Democracy & Technology regarding SB 387, the Protection from Predatory Pricing Act. I would like to focus my testimony on the bill's prohibition against using surveillance data to set grocery prices.

CDT is a nonprofit, nonpartisan organization that works to advance civil rights and civil liberties in the digital age, for everyone. A key part of that mission, since our founding 30 years ago, when the internet was in its infancy, is working to protect consumers against invasion of their privacy, and misuse of their private personal information, to exploit them or discriminate against them.

The digital collection, sorting, processing, and selling of vast amounts of this private personal information – unbounded by any comprehensive data privacy law – has enabled businesses, and data brokers who serve them, to create intimate portraits of individual consumers, which can be used to "size them up" for their susceptibility to pay more – without their knowledge, let alone their consent.

Sellers can now access personal data including the consumer's previous purchases and searches; income, assets, debts, and financial condition and history; personal and family life; employment, work life, and career history; political, social, and other activities the consumer and the consumer's family members and friends have engaged in; web-browsing and social media history; and broadly, anything about the consumer recorded or tracked and fed into the big data maw.

This "surveillance pricing" – what we refer to as "bespoke pricing," as the price is "tailor fitted" to the individual consumer, "made to measure"[1] – is a rank abandonment of the transparent "list price" approach that has served consumers well, and has justified free enterprise as best benefitting consumers and the economy. And it is a betrayal of the touted promise of the internet as a boon for shoppers. It exploits a stark information advantage that sellers using online technology can wield over consumers. It risks reducing what economists refer to as "consumer surplus" – the benefit received by consumers who would have been willing to pay more than the list price, but don't have to – to zero. It's Adam Smith's "invisible hand" turned against consumers, picking their pocket.

Any claim that sellers would use bespoke pricing to benefit their consumers is simply not credible. They are in business to make a profit. Their incentives for obscuring a standard market price work in the direction of *increasing* the price for consumers identified as gullible, desperate, or otherwise susceptible to being overcharged. Because consumers will be kept in the dark, they are far more apt to be taken advantage of than to benefit.

The technology is readily available to sellers, and is becoming easier to use and more powerful with the advance of artificial intelligence. The temptation to use it will be irresistible. We need to rein it in before it becomes a widespread feature of online commerce, in grocery shopping and elsewhere. We appreciate the Committee taking action to do so.

[1] Slover, Bespoke Pricing – What Is the Invisible Hand Up To?, CDT, Sept. 24, 2024, https://cdt.org/insights/bespoke-pricing-what-is-the-invisible-hand-up-to/.