

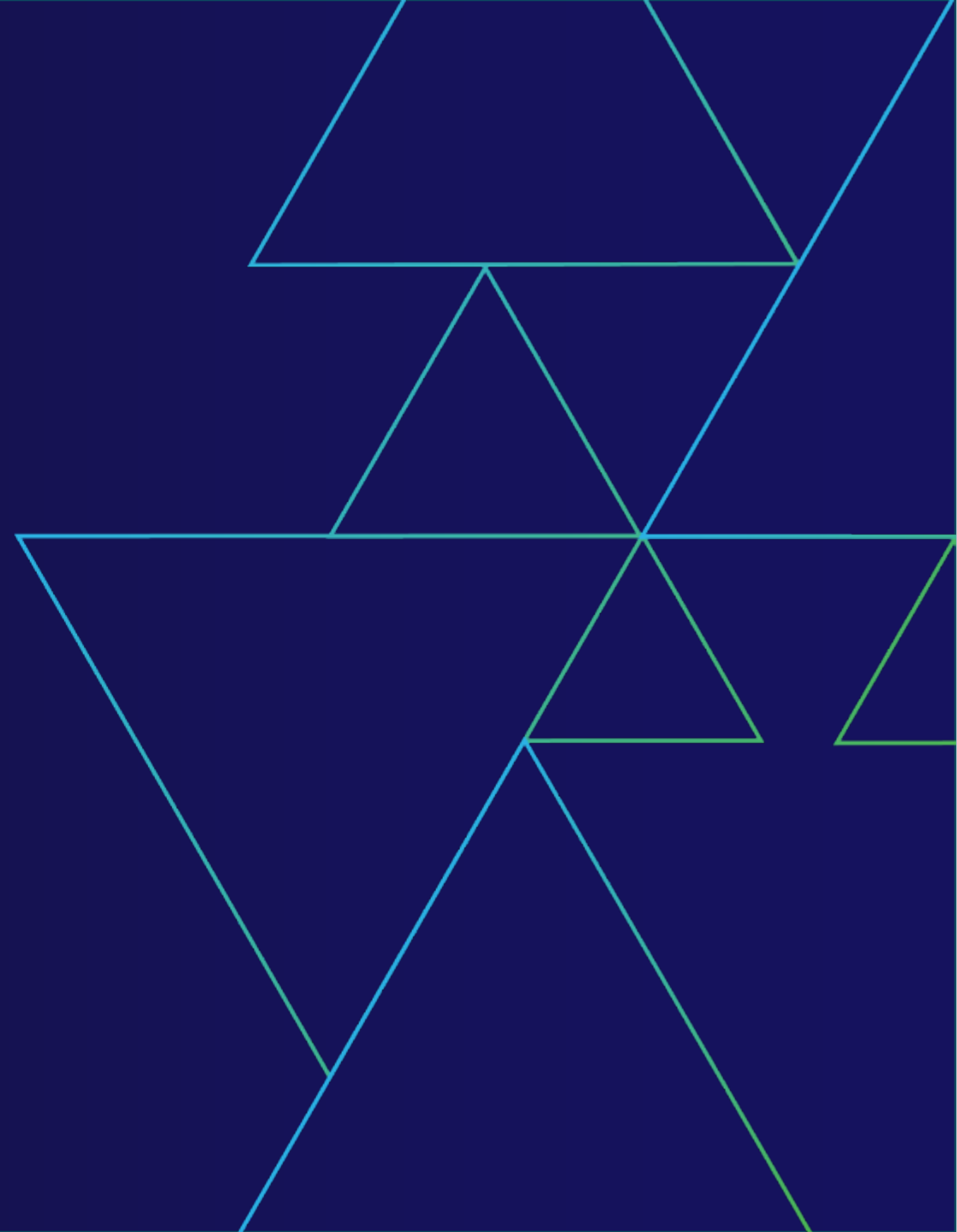


Pricing 101: Key Considerations Across Privacy and Consumer Protection

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Before the Top 10...

- NAAG Presidential Initiative: “Driving Down Costs for American Families”
- UDAP
- Antitrust
- Election Year

1. Surveillance Pricing

- Using a consumer's personal data—such as browsing history, location, income, and device type—to set a customized, individualized price for a product
- Concerns include physical stores and whether electronic shelf labels can similarly be used to deliver individualized prices
- Other terms often used, such as “surge pricing” or “dynamic pricing”

1. Surveillance Pricing

- DOJ algorithmic antitrust enforcement / California antitrust law
- N.Y. Gen. Bus. Law § 349-a
 - Requires clear and conspicuous disclosure with statement/offer: **“THIS PRICE WAS SET BY AN ALGORITHM USING YOUR PERSONAL DATA”**
- Maryland “Protection from Predatory Pricing Act” HB 895 (eff. 10/26)
 - Prohibits dynamic pricing to increase food price or use PI to set higher food prices for specific consumers
 - Prohibits using protected class PI to advertise
 - Excludes loyalty programs

ENERGY & COMMERCE
COMMITTEE DEMOCRATS

RANKING MEMBER FRANK PALLONE, JR.

PALLONE LAUNCHES SURVEILLANCE PRICING INQUIRY

May 12, 2026 | [Press Release](#)

Top Energy and Commerce Committee Democrat Questions 25 Major Corporations About Whether They Use Customers’ Personal Data to Charge Them Different Prices

2. Pricing Accuracy

- Ensuring the final price charged to a consumer (on a receipt or at checkout) matches the advertised, shelf, or displayed price.
- Interplay with concerns over electronic shelf labels

3. Subscriptions

- Subscription fees are regulated by state and federal automatic renewal laws
- Autorenewals generally include any offer where consumers' silence = consent to continue charges

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\$49

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4. Price Gouging

- Charging excessively high prices for essential goods and services—such as food, fuel, water, or lodging—often during a declared state of emergency or natural disaster

5. Line-Item Fees

- Individual, specific charges listed separately on an invoice, budget, or contract, detailing the cost of a particular good, service, or expense that is not a government-imposed tax on the consumer
- Other forms: surcharges, recovery fees

6. Pricing Disclosures

- Is the primary price claim accurate?
- Extent to which pricing disclosures modify the main price claim crossing the line into a misleading price claim.

7. “Junk Fees”

- Hidden, unexpected, or mandatory additional charges added to the advertised price of goods or services, often disclosed late in the purchasing process or deemed to offer little value.
- Sometimes referred to as “drip pricing” or “bait and switch” pricing.

8. Free Trials

- What is a “free trial”?
- Does it have to be “free”?

9. Material Changes

- Changing product/service price or discount after the agreed-upon purchase or sign-up.
 - *What notice or disclosure is required?*
 - *When?*
 - *How to provide?*

10. Promotional Price-Related Offers

- A time-limited incentive designed to boost sales, encourage customer action, or increase brand engagement

Pricing 101: Top 10 Issues

- 1 Surveillance Pricing
- 2 Pricing Accuracy
- 3 Subscriptions
- 4 Price Gouging
- 5 Line-Item Fees
- 6 Pricing Disclosures
- 7 “Junk Fees”
- 8 Free Trials
- 9 Material Changes
- 10 Promotional Offers



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