

NAAG Presidential Initiative Summit 2026 Wrap-up: Consolidation and Pricing in Focus

Paul L. Singer, Beth Bolen Chun, Abigail Stempson, Andrea deLorimier

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Last week, state AGs and staff gathered for the National Association of Attorneys General (NAAG) Presidential Initiative Summit, *Driving Down Costs for American Families*. Connecticut Attorney General William Tong, as NAAG President, convened this summit to discuss the topic. AG Tong opened the conference by describing the impact rising costs have on “every facet” of our lives, naming anticompetitive behavior, private equity, and consolidation as contributing factors. He urged the AGs to fight surging prices and protect families using UDAP laws, antitrust authority, and a host of other powers only AGs can exercise to make an impact on American families. We focus on a few panels from the summit below.

From Kitchen Tables to Market Structures: *Examining the fundamental economics behind rising costs for families and the American dream*

This panel, moderated by Rebecca Borné, Assistant Attorney General, Connecticut Attorney General’s Office was intended as a backdrop for understanding the economics of rising costs. It included an industry representative and an academic participant to discuss prices. The industry representative, general counsel for a large beef processor, explained beef pricing trends and the economic factors driving them. Ryan Nunn, Director of Research at the Budget Lab at Yale University, described short-run and long-run drivers of pricing. In the short run, he noted prices have increased from:

- Higher energy prices due to the Iran conflict
- Higher energy costs due to AI investment (but unclear)
- Tariffs
- Financing costs from higher interest rates

In the long run, prices increased from:

- Higher housing costs from land use restrictions and stagnant housing construction
- Higher consumer borrowing costs from rising federal debt

- Insufficiently competitive product and labor markets, and asymmetric information

Looking back further, Nunn pointed to a series of economic shocks responsible for inflation, including supply chain disruptions from Covid and the Russian invasion of Ukraine.

Market Consolidation and America's Pocketbook: *Housing, Eggs, Broadcast Media & More*

Nicole Demers, Deputy Attorney General, Connecticut Attorney General Office kicked off the panel which also included Elizabeth Odette, Assistant Attorney General, Minnesota Attorney General (and Antitrust Task Force Chair) and Christopher Teters, Assistant Attorney General, Kansas Attorney General's Office, with a representative from the American Economic Liberties Project (AELP).

Demers stated that when markets consolidate, consumers feel the effects including in the areas of housing, groceries, healthcare, and media. AELP posited that concentration is caused by labor exploitation and other "economic termites" such as company uniform rental markets, where bloating causes higher prices. Odette said state AGs are in a unique position to hear from consumers, and state resources have increased in several states including through the creation of additional positions, increased fines, merger notification laws, and laws keeping antitrust actions from being pulled into MDLs. Teters explained the multistate approach is especially important for states like Kansas, as it allows them to put time and effort into big cases and "help swing way above their weight class" to impact consumers.

The panelists discussed several types of consolidation, including in the areas of housing, groceries, and media. Centralized pricing software or algorithmic pricing may exacerbate the issue of housing prices. Panelists admitted that in some cases conduct that looks illegal may not be. Teters pointed to how difficult it is to investigate and convince judges or juries of illegal conduct. He also noted how general issues with drought or the economy, and a state of crisis, breeds opportunity for anticompetitive conduct and obfuscates potential issues. AELP's panelist claimed that in agriculture, there is a problem with the floor prices going up even after a crisis, such as with eggs, beef, Pepsi, payment companies, and fertilizer. Odette mentioned recent enforcement in Agristats, John Deere, and pesticide loyalty programs and said states are looking at a Restaurant Depot merger. Demers asked how consolidation impacts media, not just with prices and labor but also with the marketplace of ideas and information. Odette said local journalists used to report on local businesses, and consolidation could lead to a decrease in quality of news. AELP said consolidation including Google Adtech and other media companies is eroding the ability to know what is going on in society, and thinks AGs should not overlook vertical integration. He said you can point at anything and find an issue.

Current Consumer Trends in Data-Driven Pricing

Utah Attorney General Derek Brown moderated this panel, the next in a series of [similar recent panels](#), joined by panelists from Instacart, the National Grocers Association, and Stevie DeGroff, First Assistant Attorney General at the Colorado Attorney General's office.

Defining Pricing Terms

AG Brown commented that the pricing landscape shifts every couple of weeks. He understood the use of dynamic pricing, such as price changes due to war, as with individualized pricing for auto insurance. But other instances of individual pricing sparked questions. DeGroff defined the terms surveillance, personalized, dynamic, and algorithmic pricing. The term "loyalty programs" has come

up with regulations many states are considering, but is not easily defined. Colorado dealt with defining bona fide loyalty programs with its existing privacy law and related regulations, summarized as a program established for genuine purchase to provide defined benefit to a consumer voluntarily participating. DeGroff said when thinking of the contours of surveillance pricing, it is important to consider whether the consumer is getting a benefit versus harm.

Potential Pricing Harms

DeGroff outlined two main buckets of harms:

1. Data Abuse. DeGroff explained abuse could be tied to surveillance pricing because businesses collect so much data to personalize. She said an increasing amount of data is being collected seemingly unrelated to the goods and services – for example, categorizing consumers by intellectual ability, or collecting biometric data. Concerns originating with targeted advertising are now playing out with surveillance pricing where secondary uses are not disclosed to consumers. Further, data becomes the target of breaches. This all causes a lack of trust from consumers.
2. Pricing Risks. DeGroff described headlines about airlines using search history to set a higher price, using customer desperation, or personal data including sensitive or demographic data, to set a higher price. Businesses could also target discounts, with some getting more than others. Who gets the discount and why?

Enforcement Tools

AG Brown summed it up as pricing is not just what the market will bear, but what will the *consumer* bear. While surveillance pricing is “creepy”, he acknowledged there are some misconceptions and discussed those with the industry participants. For example, when data is being individualized, in practice panelists said it is being used to help consumers find what they want or help target coupons or promotions that benefit both consumers and small businesses.

AG Brown asked how to provide disclosure and transparency without suppressing innovation. DeGroff said Colorado’s bill took this question into consideration, and she expects the vetoed bill to reemerge next year. She also pointed out current laws that can address pricing issues, such as consumer privacy laws addressing deleting data, opting out of the sale of data, and opt out of targeted advertising. States can also use unfairness – for example, if there is a fake discount or the discount is not equally applied. If using demographic data, businesses could run afoul of antidiscrimination laws. Finally, states also have laws addressing that the price on the shelf has to be the price at checkout.

Disclosures and Innovation

DeGroff said it is useful to think of a ground truth for consumers, and what harm to prevent. More sensitive data could lead to more harms, and appropriate controls could be used for data. Should controls be for setting a higher price? Selectively giving discounts? Or set depending on the industry? Where might consumers have more expectation of fairness and ensuring no opportunity for misuse? AG Brown agreed that with discount programs there should be protections, but cautioned on “squishing” innovation including potentially coupons. DeGroff agreed but said a wholesale carve-out for loyalty programs could be harmful with potential misuse.

AG Brown asked about disclosures like the New York law requirement. He questioned whether awareness is good enough – knowing someone is watching and collecting. Panelists responded that it

is difficult to have meaningful disclosure, including issues with disclosure fatigue and potential for over disclosure to create antitrust concerns. DeGroff agreed antitrust is a great tool for the price setting world, but price tags are in the stores due to a moral imperative to charge customers the same price and treating customers fairly.

DeGroff proposed rather than meaningful disclosure, control of data such as deletion rights might be more meaningful. Further, the role of data brokers may be different than if a brand or business a customer expects is getting data. She mentioned California's upcoming data broker law that requires deletion of that data. She also suggested opting out of secondary use of data would be helpful. Finally, a true price, the same as what everyone is seeing, to start at the same place can mitigate potential harms. She does not want customers to be siloed when it comes to pricing.

Conclusion

Expect state AGs to continue to debate:

- The right balance between free markets and consumer protection.
- The interplay between disclosure, innovation, consumer protection, and antitrust.
- The appropriateness of tools such as antitrust laws, UDAP, privacy, and others to address alleged harms versus more specific regulation.