October 30, 2026

Brian H. Mahanna, Esq.
Counsel to the Governor (The Hon. Kathy Hochul, Gov. of New York State)
Executive Chamber
State Capitol, Second Floor
Albany, NY 12224

Via email: Brian.Mahanna@exec.ny.gov

Re: Recommendation for the governor's approval of the One Fair Price Act, S.8623B/A.9349B

Dear Mr. Mahanna:

The National Association of Consumer Advocates (NACA) writes to request that Gov. Hochul approve and sign the One Fair Price Act, S.8623B/A.9349B. Consumers have very little control over companies' mass collection, sale, and use of their personal information. This bill rightfully would prohibit companies' use of New Yorkers' personal data to set individualized prices for them, also known as surveillance pricing. As an organization actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means, NACA commends the bill sponsors and the legislature for recognizing the risks of manipulated pricing and passing protections for New York residents.

Surveillance pricing is an inherently unjust and potentially discriminatory practice to charge members of the public different prices for the same product. Companies gather data on consumers' purchase histories, whether consumers know it or not, and without their consent. Companies collect data through online search history, geolocation, IP address, device type, and other factors used to create consumer profiles.[1] They use algorithmic systems to determine prices, allowing them to charge some people higher prices than others, even at the same time of purchase.[2]

While it prohibits surveillance pricing, the bill notably preserves bona fide discounts, loyalty programs, coupons, and promotions covering categories of consumers. We appreciate that the legislation authorizes the Office of the Attorney General to enforce the law with civil cases.

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[1] Federal Trade Commission, *FTC Surveillance Pricing 6(b) Study: Research Summaries A Staff Perspective*, January 2025, https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf.
[2] Derek Kravitz, *Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds*, Dec. 9, 2025, https://www.consumerreports.org/money/questionable-business-practices/instacart-ai-pricing-experiment-inflating-grocery-bills-a1142182490/

However, it does not enable consumers to privately enforce its provisions when companies use their data for surveillance pricing, which would have more effectively encouraged compliance with the law.

Surveillance pricing is a dangerous tool to manipulate consumers' personal information that only serves to generate larger profits for companies, while raising costs for residents. The One Fair Price Act will protect New Yorkers from the worst consequences.

We urge Gov. Hochul to approve and sign S.8623B/A.9349B. Thank you for considering our views.

Sincerely,

Christine Hines
Senior Policy Director