

Fair Pricing and Transparency

Fair Pricing Background

- Grocers collect as much as 2,000 data points about consumers
- Includes “demographic and financial data, such as income levels, debt, or even how often someone shops online.”
- Allows companies “to identify an individual’s ‘pain point’ —the maximum price a consumer will pay”
- Consumers receive different prices and discounts
- Small and independent grocers at a disadvantage



Presenters

- Lee Hepner, American Economic Liberties Project
- Dr. Katie Wells, AI Now Institute
- Kerem Levitas, Mayor's Office



Presentation Scope

Algorithmic Price Discrimination Background and Policy Interventions

Algorithmic Price Discrimination Research

Fair Pricing & Transparency Legislation Overview

- Engagement
- Legislation Overview
- Implementation & Enforcement

Algorithmic pricing: A primer

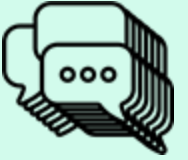
Lee Hepner

Senior Legal Counsel

American Economic Liberties Project

What is “algorithmic price discrimination”?

- "Individualized" or "first-degree" price discrimination
- The processing of personal data to discriminate between individual consumers or granular consumer segments
- "Willingness to pay" → "pain-point pricing" and "desperation finance"



Algorithmic pricing is unfair and deceptive.

But not all price discrimination is illegal!

Until recently, individualized price discrimination was impossible.

Consumer protection laws may be inadequate.

The role of online shopping & third-party pricing services.

Legislation to *PROTECT* consumer benefits



- Prohibit use of personal information to set price
- Narrow exceptions define the rule; broad exceptions swallow it
 - Broadly defined group discounts: *not "personalized discounts"!*
 - Standardized loyalty programs: *no Trojan horses!*
 - Cost-based differences in price
- Benefits must be (1) publicly offered, (2) pursuant to disclosed terms, (3) that are equally applied

Three pillars of fair pricing:

1. predictability
2. transparency &
3. fairness

Stateline

HEALTH CARE

DEMOCRACY

ECONOMY

ENVIRONMENT

SOCIETY

CRIMINAL JUSTICE

AFFORDABILITY

ECONOMY

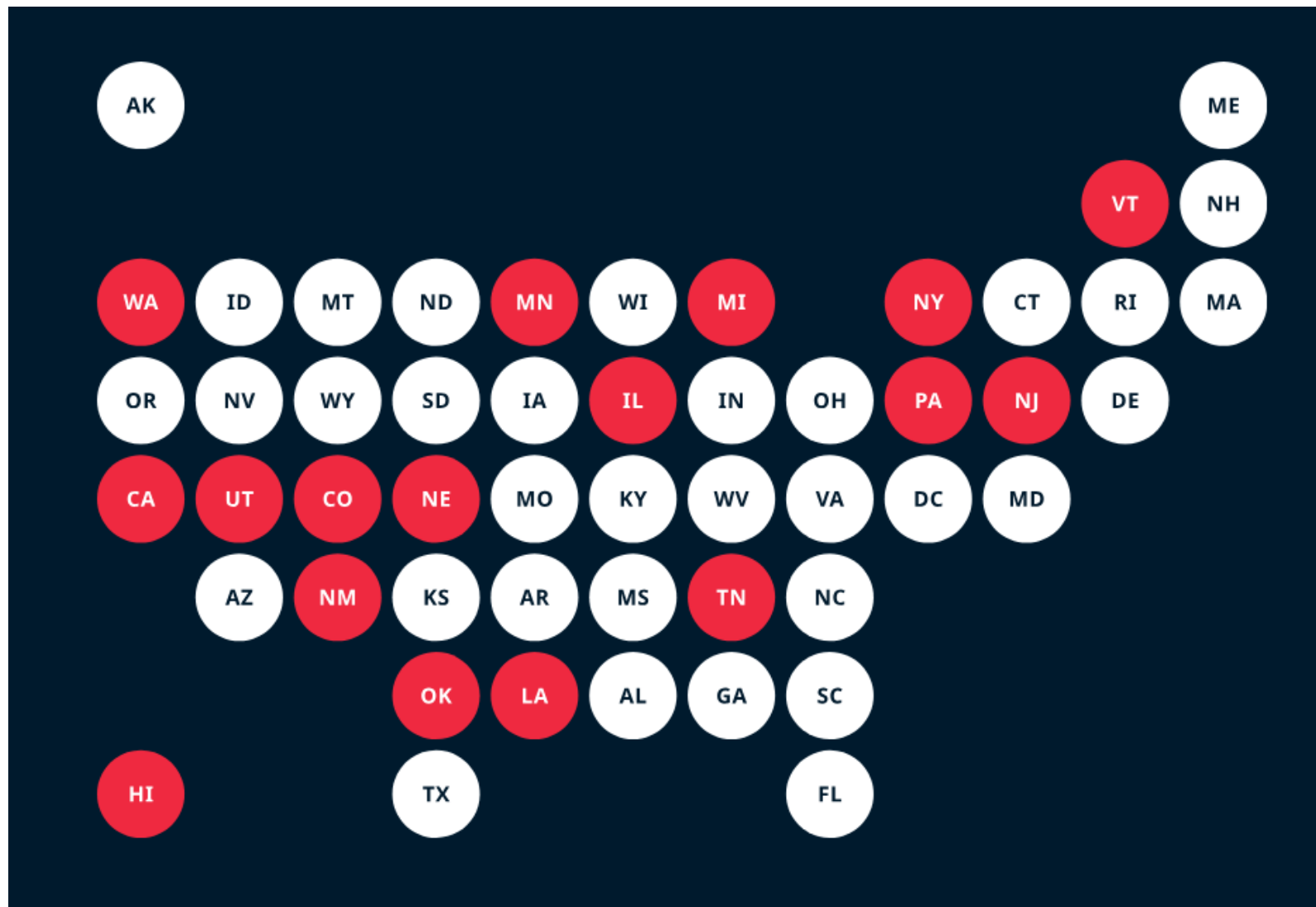
TECHNOLOGY

States begin banning 'surveillance pricing' that uses personal data to charge more

Maryland and New Jersey laws target grocery stores, while Connecticut's applies more broadly to retailers.

BY **ROBBIE SEQUEIRA** - AUGUST 4, 2026 2:44 PM

Jurisdictions Considering or Enacting Fair Pricing Legislation

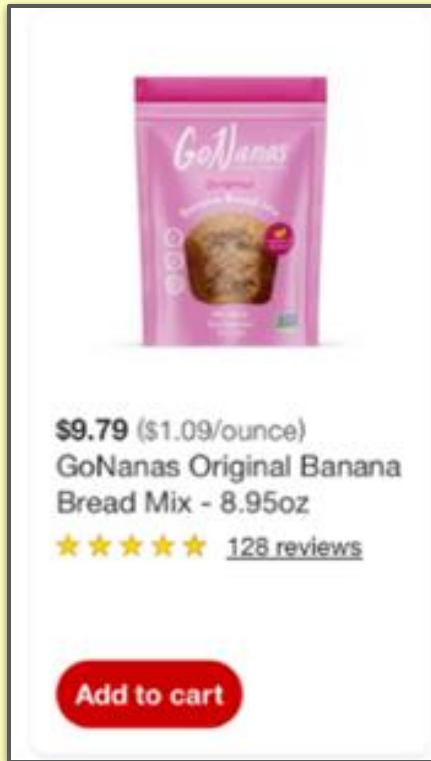


Collecting evidence: What we've found

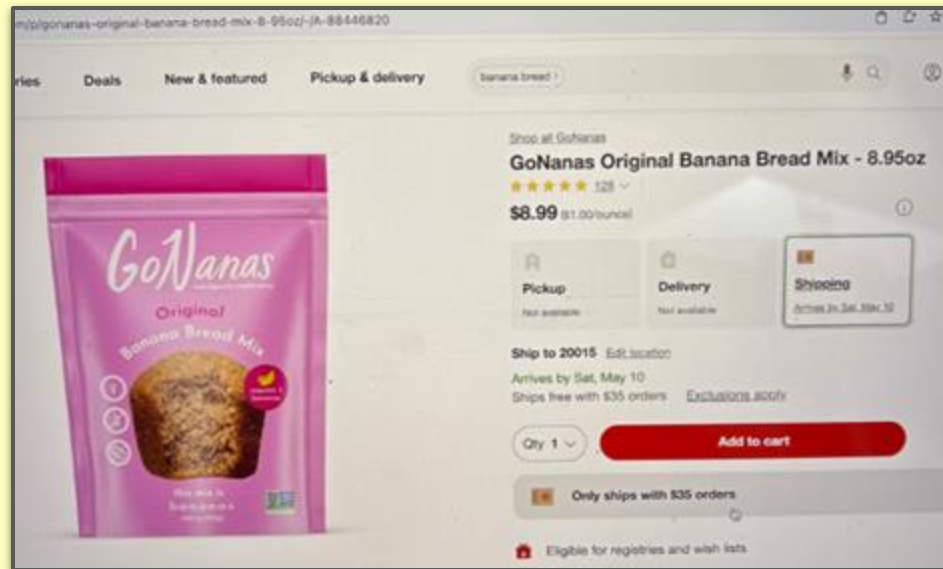
Katie J. Wells, Ph.D.
Senior Fellow
AI Now Institute

Tuesday, May 7, 2025 at 9:32 PM

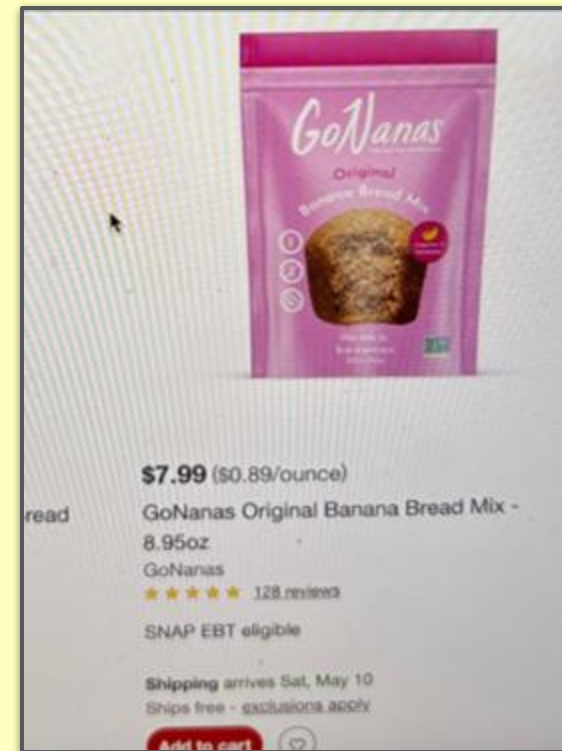
Mobile app:
\$9.79



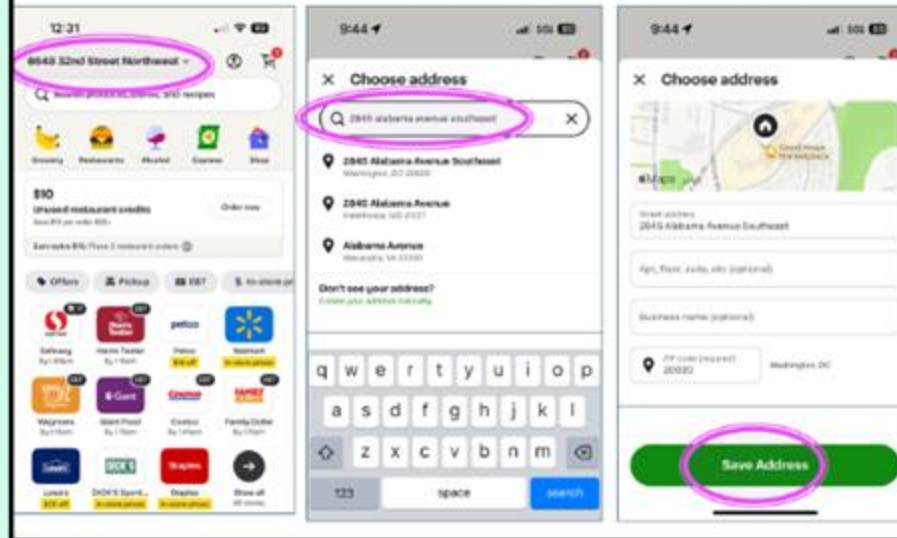
Laptop: \$8.99



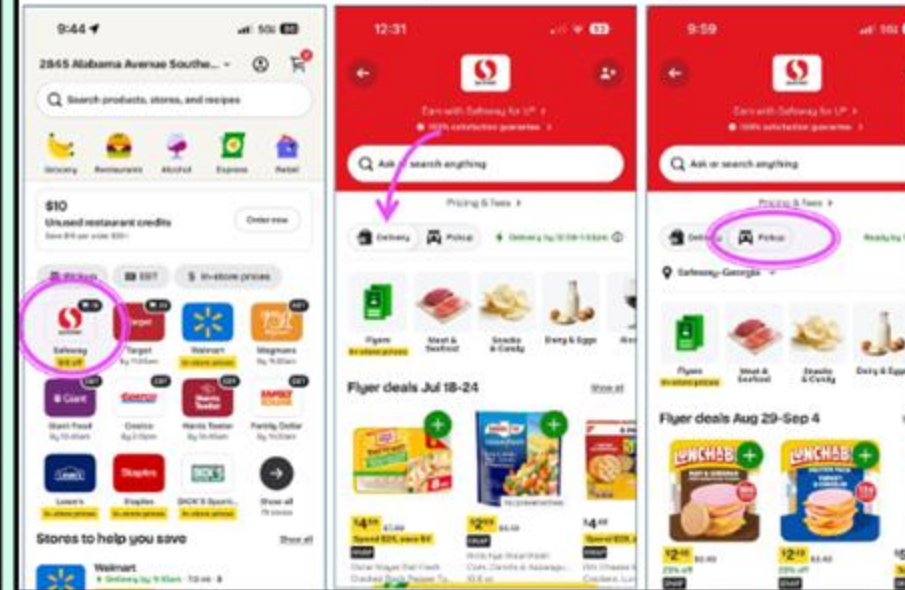
Private browsing
on laptop: \$7.99



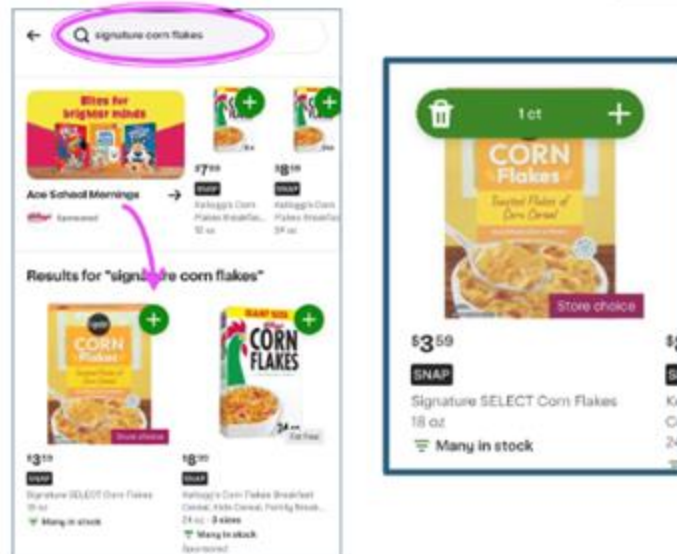
Enter address: 3900 South Othello ST
Seattle, WA 98118



Select Safeway store and pickup



SIGNATURE Select Corn Flakes, 18 oz



Take 3-4 Screenshots





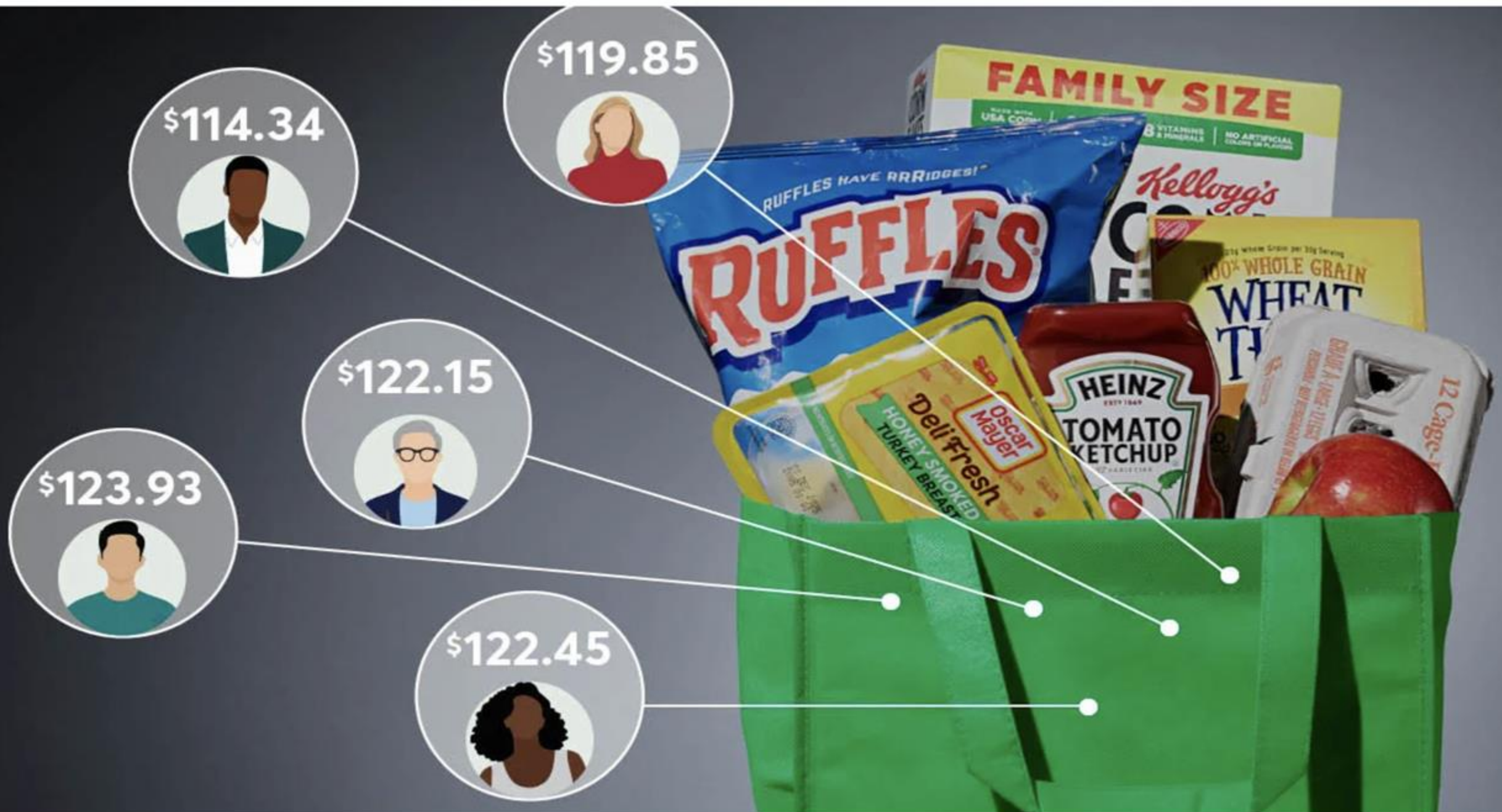
We Had 400 People Shop For
Groceries. What We Found ...

More Perfect Union ✓ and Consumer...



EXCLUSIVE: We uncovered a secret...

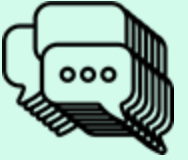
Instagram



About three-quarters of the products we checked on Instacart were offered at different prices to different customers—with price variations for the same products ranging from as little as 7 cents to \$2.56 per item.

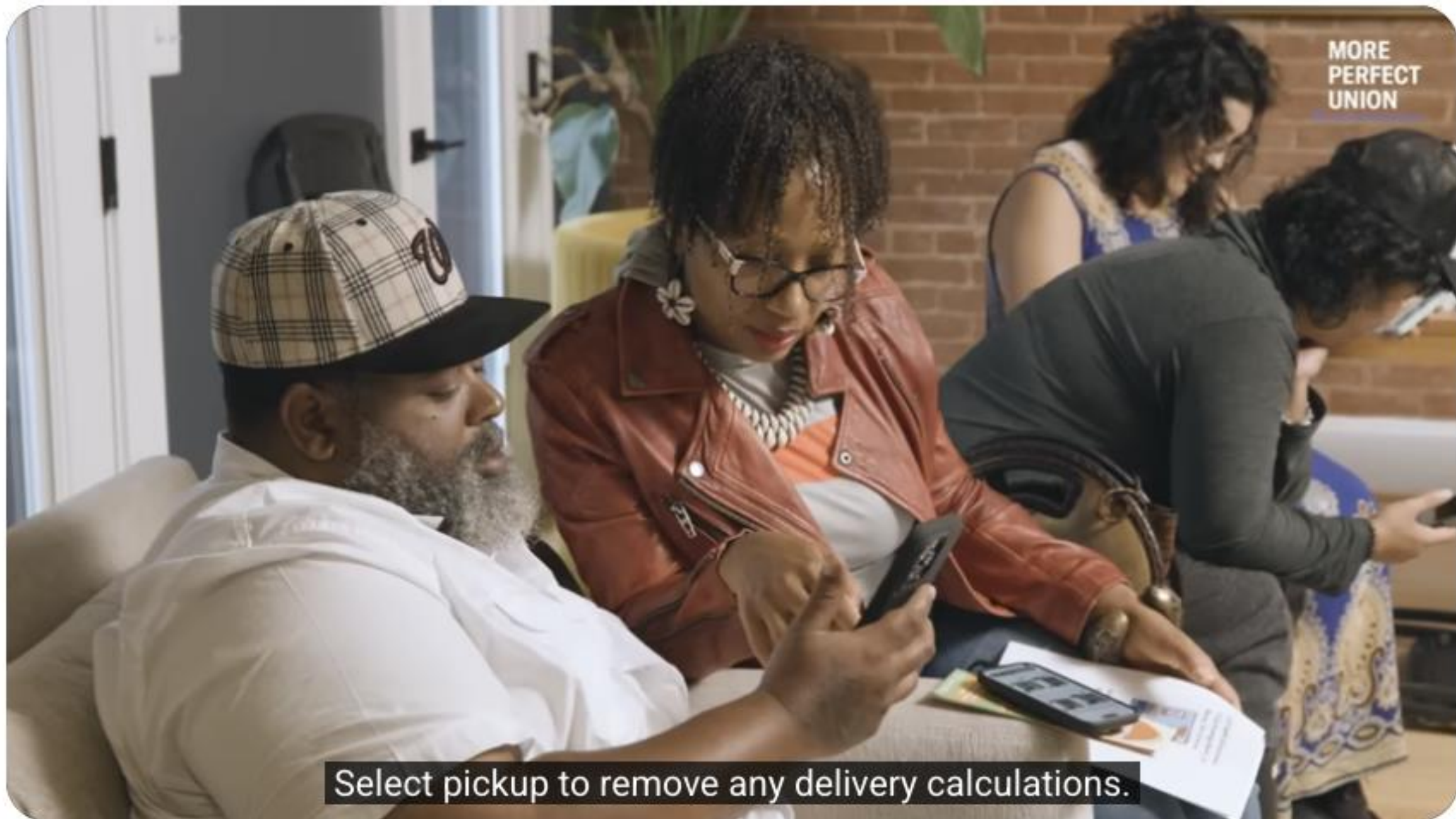
GRAPHIC: CONSUMER REPORTS, GETTY IMAGES

Screenshot



“They say there’s a price to being disabled or old, and that seems to be the case here. I worry that once I get older, I won’t be able to fully appreciate the price games they are playing. I will be very vulnerable, and they will basically be **screwing me out of my money.**”

- Alex Tolley, study participant, age 71



MORE
PERFECT
UNION

On phones and computers.

Engagement: Community

- 7 Group meetings; multiple individual conversations
- Summary of changes made
 - Simplified and clarified disclosure requirements
 - Refined coverage for grocery delivery from warehouses
 - Refined definitions for personal information, algorithmic price discrimination

ACLU	Amazon Employees for Climate Justice	Faith Action Network	Church Council	Tech 4 Taxes	Transit Riders Union
SEIU 6	WA People’s Privacy	Tech 4 Housing	WAISN	Puget Sound Sage	350 Seattle
Change is Coming	Your City	Seattle Global Housing	MLK Labor	Washington Fair Trade	Working Family’s Party
Nexus of Privacy					

Engagement: Business

- **35+ individual meetings; 6 stakeholder meetings** (5 – 45 stakeholders present per meeting)
- **Summary of changes made:**
 - Discounts: Employee discounts, loyalty program expansion
 - Business Practices: Customer retention, store-based pricing, delivery location exceptions
 - Disclosures and recordkeeping: Simplified and removed disclosure/recordkeeping requirements
 - PRA: Narrowed coverage
 - Definitions: Refine definitions for covered retailer, consumer, discount, loyalty program, mixed-use grocer, and electronic shelf labels

WA Retail	Amazon	Target	Seattle Chamber	PCC	Queen Anne Chamber
NWGRA	Kroger	Costco	Minority Business Coalition	Beacon Business Alliance	Phinney Neighborhood Association
WFIA	Doordash	Safeway	Red Apple	GSBA	Central Area Collaborative
Instacart	Uber	QFC	Uwajimaya	DSA	LAMs Seafood

Engagement: Policy Experts

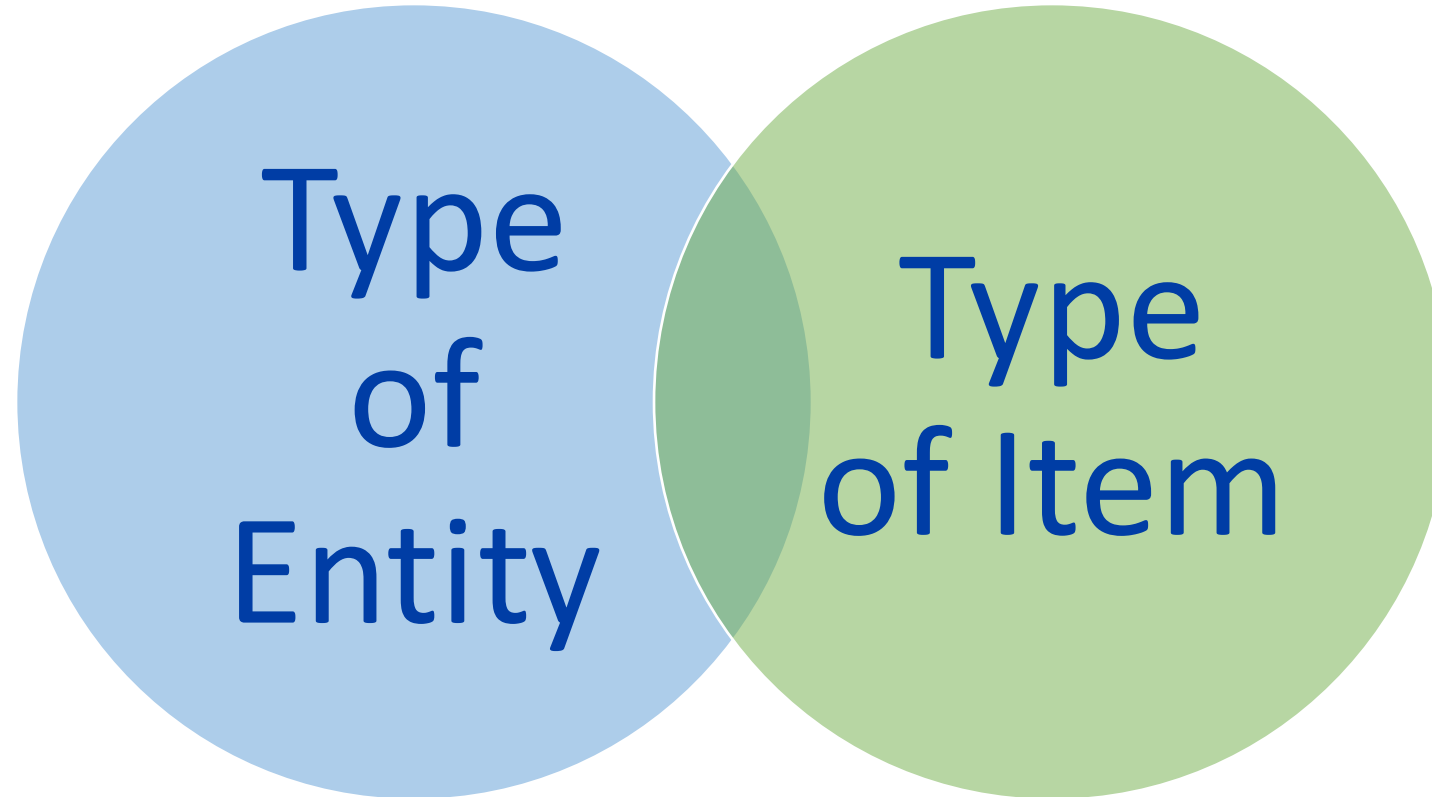
Organization	Subject Matter
Consumer Reports	Consumer Protections/Advocacy
UFCW International	Workforce, Grocery Industry
AI Now	AI/Tech Policies
Tech Equity	Tech & Workforce Policies
American Economic Liberties Project	Monopolies, Antitrust
Towards Justice	Economic and Workers

Policy: Overview

- Prohibits price setting based on personal information (race, gender, employment status, social media posts, google searches, browsing history, AI chatbot conversations)
- Protects common discounts (\$1.00 off; shoppers card; group discounts)
- Maintains flexibility for conventional business practices (e.g. store-based pricing; customer retention)
- Requires disclosures
- Enforcement



Policy: Coverage



Policy: Coverage

Grocery Business

- Entity Definition: 10,000 square feet, 20 or more locations worldwide, primarily retails groceries
- Item coverage: all items
- Examples: Safeway, QFC, NOT small grocers or convenience stores

Mixed Use Grocery Business

- Entity Definition: At least 10,000 square feet dedicated to grocery
- Item Coverage: groceries, diapers, grooming and hygiene products, or over-the-counter drugs
- Examples: Target, Fred Meyer, Costco

Delivery Service Provider

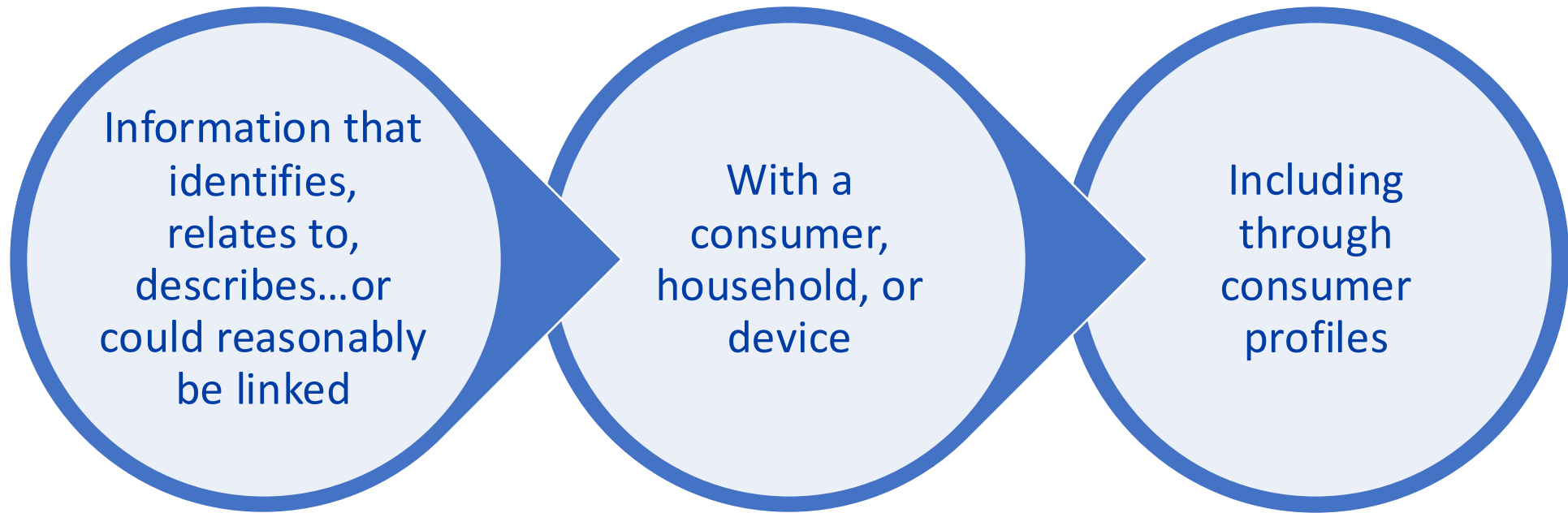
- Entity Definition: At least 100 employees, delivery/pickup from a grocery store, mixed use store, or a warehouse
- Item Coverage:
 - Any item from a grocery store
 - Groceries, diapers, grooming and hygiene products, or over-the-counter drugs from warehouse or mixed-use store
- Examples: Instacart, Amazon, Doordash

Policy: Ban on Algorithmic Price Discrimination

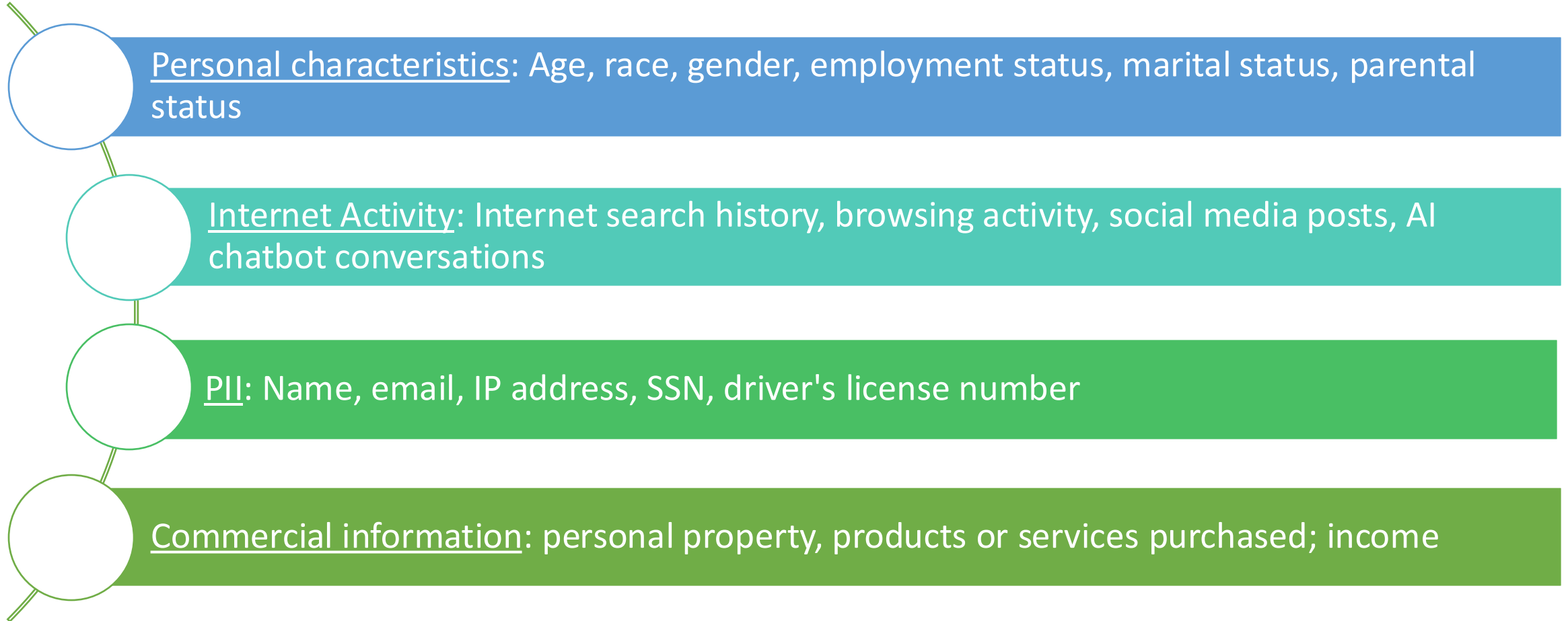
- Setting, altering, or manipulating the price of goods
- Based on monitoring, tracking, or automated analysis
- Of consumer's behavior, location, demographic characteristics, biometric data, or other **personal information***
- Using Electronic Shelf Labels (ESLs) to display algorithmically modified prices is prohibited.

*See next slides

Policy: Personal Information



Policy: Examples of Personal Information



Policy: Allowed Practices

- Store by store pricing
- Pricing based on delivery location
- Customer retention offers (e.g. offers when cancelling memberships)
- Regional, neighborhood, or other pricing based on aggregate information

Policy: Protected Discounts

- Everyday discounts: \$1.00 off cucumbers; \$4 off coffee
- Loyalty club discounts: made available to all members
- Group discounts: teachers, students, veterans, employees, etc.*
- Discounts for promotions, mailing lists, bulk purchases*
- Manufacturer Coupons
- Discounts based on prior purchases based on consumer tiers*

*Indicates disclosure requirement
(see subsequent slide)

Policy: Prior Purchase History

- Discounts based on prior purchases permitted if
 - Offered to loyalty club members
 - Based on consumer tiers, not individualized prices
 - (e.g. purchased last week, last month, 2 months ago)
 - Tiers based only on prior purchase history
 - Not combined with other personal information or third-party data

Policy: Disclosures

- Eligibility criteria for group discounts (teachers, veterans, employees, etc.)
- Eligibility criteria for discounts based on promotions, mailing lists, bulk purchases
- Disclosure of consumer tiers

Enforcement & Implementation

Enforcement

- **Private Right of Action:**
 - Limited to entities with 25 or more locations statewide
- **City Attorney**
 - May file civil suit to enforce violations

Implementation:

- Rulemaking & outreach by FAS
- Implementation budget of \$175K, no additional FTE

Effective Date

- September 1, 2027

Thank You