Testimony Before the Pennsylvania General Assembly on House Bill 1942

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House Consumer Protection, Technology, and Utilities Committee

Pennsylvania General Assembly

Hearing on House Bill 1942 – The Surveillance Pricing Act

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Chairman Burgos and Members of the Committee,

Thank you for the opportunity to submit testimony on the Surveillance Pricing Act (House Bill 1942).[1]

My name is Stephanie Nguyen, and I previously served as the Chief Technologist at the Federal Trade Commission from 2021 to 2025.[2] There, I built and led the agency's first Office of Technology,[3] strengthening and supporting matters across consumer protection and competition – including the Surveillance Pricing Inquiry and Report.[4] I am currently a Senior Fellow at

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[1] "House Bill 1942: An Act providing for prohibition on surveillance pricing; and imposing penalties," 2025-2026 Regular Session, Pa. H.R., PN 2451 (Oct. 16 2025), https://www.palegis.us/legislation/bills/2025/hb1942.

[2] "Stephanie T. Nguyen" U.S. Federal Trade Commission, accessed November 11, 2025, https://www.ftc.gov/about-ftc/commissioners-staff/stephanie-nguyen

[3] "FTC Launches New Office of Technology to Bolster Agency's Work," Federal Trade Commission, February 17 2023, https://www.ftc.gov/news-events/news/press-releases/2023/02/ftc-launches-new-office-technology-bolster-agencys-work

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Vanderbilt Policy Accelerator, where we work on research and policy around network, platform, and utility regulation; industrial policy and economic security; and public options and governance. Experts at VPA have recently released work on the cost-of-living crisis – including price gouging,[5] loyalty programs,[6] credit card rates,[7] and surveillance pricing in the airline industry.[8] My testimony draws on my professional experience and represents my personal opinions.

The issues addressed by the Surveillance Pricing Act strike at the heart of a pressing issue: the collection and use of personal and behavioral data to set individualized prices – often referred to as surveillance pricing.[9]

Increasingly, companies are moving away from mass pricing and crude group segmentation to individualized pricing[10] where data can be used to extract the maximum a consumer is willing to pay. Today, the surge of data generated by connected devices and the rise of AI[11] systems trained on troves of user data[12] has created new opportunities for companies to target individuals with greater precision.[13] Retailers and online platforms can now collect and analyze vast troves of personal information – browsing history,[14] location data,[15] keystroke data,[16] purchasing behavior,[17] and even device type[18] – to set individual prices.

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[5] Brian Shearer, Price Gouging Captive Customers, Vanderbilt Policy Accelerator (Nov. 2025), https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2025/11/06170435/Price-Gouging-Captive-Customers.pdf

[6] Samuel A.A. Levine & Stephanie T. Nguyen, The Loyalty Trap: How Loyalty Programs Hook Us with Deals, Hack Our Brains, and Hike Our Prices (Vanderbilt Policy Accelerator, Oct. 2025), https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2025/10/17195957/The-Loyalty-Trap.pdf

[7]Brian Shearer, Capping Credit Card Rates, Vanderbilt Policy Accelerator (Sept. 2025), https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2025/10/01144344/Capping-Credit-Card-Rates.pdf

[8] "Examining Competition in America's Skies," Subcommittee on Antitrust, Competition Policy, and Consumer Rights of the U.S. Senate Committee on the Judiciary, September 30, 2025, https://www.judiciary.senate.gov/committee-activity/hearings/examining-competition-in-americas-skies

[9] "FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing," Federal Trade Commission, July 23, 2024, https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-issues-orders-eight-companies-seeking-information-surveillance-pricing

[10] Stephanie T. Nguyen, "The Price of Surveillance: The Parallel Evolution of Targeted Ads to Targeted Prices," Yale Journal on Regulation – Notice & Comment, Sept. 17, 2025, https://www.yalejreg.com/nc/the-price-of-surveillance-the-parallel-evolution-of-targeted-ads-to-targeted-prices-by-stephanie-t-nguyen/.

[11] Kara Williams & Ben Winters, "Specific Terms for Specific Risks: The Need for Accurate Definitions of AI Systems in Policymaking," Electronic Privacy Information Center (Oct. 1, 2025), https://www.epic.org/specific-terms-for-specific-risks-the-need-for-accurate-definitions-of-ai-systems-in-policymaking/.

[12] "AI (and other) Companies: Quietly Changing Your Terms of Service Could Be Unfair or Deceptive," Federal Trade Commission, February 13 2024, https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/02/ai-other-companies-quietly-changing-your-terms-service-could-be-unfair-or-deceptive.

[13] Stephanie T. Nguyen, "The Next Frontier of Surveillance: Investigating Pricing Systems," Yale Journal on Regulation – Notice & Comment, September 21, 2025, https://www.yalejreg.com/nc/the-next-frontier-of-surveillance-investigating-pricing-systems-by-stephanie-t-nguyen/.

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[15]"Complaint, In re Mobilewalla, Inc., File No. 202-3196," Federal Trade Commission, https://www.ftc.gov/system/files/ftc_gov/pdf/2023196mobilewallacomplaint.pdf.

[16] Lina M. Khan, Remarks at the IAPP Global Privacy Summit 2022 (Apr. 11, 2022), Federal Trade Commission, https://www.ftc.gov/system/files/ftc_gov/pdf/Remarks%20of%20Chair%20Lina%20M.%20Khan%20at%20IAPP%20Global%20Privacy%20Summit%202022%20-%20Final%20Version.pdf.

[17] "Complaint, In re Avast Ltd., et al., File No. 202-3033," Federal Trade Commission, https://www.ftc.gov/system/files/ftc_gov/pdf/Complaint-Avast.pdf.

[18] Christo Wilson, "If you use a Mac or an Android, e-commerce sites may be charging you more," The Washington Post, November 3, 2014, https://www.washingtonpost.com/posteverything/wp/2014/11/03/if-you-use-a-mac-or-an-android-e-commerce-sites-may-be-charging-you-more/

Surveillance pricing related practices can lead to harms[19] including: higher prices[20], threats to unauthorized disclosure of information to third-parties,[21] discrimination in access to housing[22] or employment opportunities,[23] and potential harms to competition.[24] Most recently, my colleague, Sam Levine and I released a report outlining the surveillance pricing tactics companies employ through loyalty programs.[25] For years, researchers,[26] investigative journalists,[27] advocacy organizations,[28] and regulators[29] have also sounded the alarm on areas related to this issue.

House Bill 1942 recognizes these risks and prohibits surveillance-based pricing that uses personal data without consumer awareness or consent. As the Committee continues to evaluate HB 1942, I would encourage the Committee to consider the following concepts:

1. **Public prices and price ranges.** A business offering goods or services to the public should be required to disclose a public price and a public price range available to all consumers in the relevant market. The disclosed price and price range should represent the actual price(s) paid by a substantial portion of consumers during a defined period, and not an artificial one intended to create the appearance of discounts and benefits.

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[24] Ginger Zhe Jin, Liad Wagman & Mengyi Zhong, "Surveillance Pricing: A Cautionary Summary of Potential Harms and Solutions," International Center for Law & Economics, July 14 2025, https://www.laweconcenter.org/resources/surveillance-pricing-a-cautionary-summary-of-potential-harms-and-solutions/.

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[27] Julia Angwin, Surya Mattu & Jeff Larson, "The Tiger Mom Tax: Asians Are Nearly Twice as Likely to Get a Higher Price from The Princeton Review," *ProPublica*, September 1, 2015, https://www.propublica.org/article/asians-nearly-twice-as-likely-to-get-higher-price-from-princeton-reviewhttps://www.wsj.com/articles/SB10001
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[29] See, e.g., Changes Needed to Protect Consumers Using Customer Loyalty Schemes, Australian Competition & Consumer Comm'n, (Dec. 3, 2019), https://www.accc.gov.au/media-release/changes-needed-toprotect-consumers-using-customer-loyalty-schemes.
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2. **No charging higher than the public price.** No consumer should be charged a price *higher* than the publicly advertised price for the same good or service. To ensure this rule is meaningful, the "public price" should not be buried in fine print or hidden behind multiple clicks. In addition, it should reflect what most consumers actually pay.
3. **Behavioral data ban or limitations.** There should be default restrictions on collecting and using behavioral data to set individualized prices. Businesses should be prohibited from collecting or using browsing, search, biometric, or behavioral data to set individualized prices or discounts, or to infer a consumer's "willingness to pay."
4. **Preserve bona fide loyalty programs.**[30] **No broad carveouts for loyalty, membership, or rewards programs.** Loyalty and rewards programs can benefit consumers, but they must not serve as loopholes for surveillance-based pricing. Any exception should be narrowly tailored to legitimate uses. Discounts or rewards should rely on clear, verifiable criteria – such as documented past purchases – as opposed to behavioral profiling or the sale of consumer data to third parties.

States like Pennsylvania have a critical opportunity to establish clear and resilient rules to ensure fairness and transparency in the marketplace. By advancing this legislation, Pennsylvania has an opportunity to set a nationwide example of how technology can serve consumers, rather than exploit them.

Thank you for your leadership on this issue and for inviting me to share my perspective. I would be happy to provide follow-up materials or data supporting these recommendations and to answer any questions from the committee.

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I am grateful to the many colleagues and experts who I have collaborated with on this topic – and to those who have provided feedback and insights that informed these remarks: Asad Ramzanali, Brian Shearer, Sam Levine, Lee Hepner, Erie Meyer

[30] Geoffrey A. Fowler, "The hidden way using a rewards card can cost you more — Starbucks tracked my every purchase; then gave me fewer deals. It's called surveillance pricing," The Washington Post, October 18 2025, https://www.washingtonpost.com/technology/2025/10/18/starbucks-loyalty-program-surveillance-pricing/