

United States Senate
WASHINGTON, DC 20510-3203

December 14, 2025

The Honorable Andrew N. Ferguson
Chairman
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Chairman Ferguson:

As families across New York City, Long Island, and the nation continue to struggle with stubbornly high grocery prices, consumers demand answers over recent reporting that Instacart is using artificial intelligence to charge different shoppers different prices for the same exact grocery items, including at the same store and same time, and to display different original prices that can make purported discounts appear larger or smaller depending on the shopper. This would be a violation of trust, transparency and fairness and should amount to unfair and deceptive conduct under the FTC Act if validated.

According to Consumer Reports' findings, Instacart shoppers were unknowingly sorted into AI-enabled pricing experiments, with differences as high as 23 percent for identical items, potentially translating into hundreds or even more than a thousand dollars per year for households. New Yorkers and Long Islanders and already grappling with high costs of living that has only gotten worse under this Administration, are especially vulnerable to any "shakedown pricing" that quietly inflates essential households.

Instacart's own public statements heighten these concerns. As reported, Instacart's CEO has described AI as helping retailers "dynamically optimize" pricing by learning which categories consumers are price sensitive to and adjusting prices accordingly. If Instacart is using AI to test and tune consumers' willingness to pay without clear disclosure, then the FTC must step in.

I urge the Commission to take immediate action and to provide my office with a prompt briefing and written response addressing the following:

1. Prioritize scrutiny of "original price" and savings representations.

Investigate Instacart's display of varying "original" prices and discounted item constitutes deception, including whether reference-price practices inflate perceived savings.

2. Establish a clear, plain-language disclosure label for pricing experiments and algorithmic price variation.

Consumers deserve to know when they are being placed into pricing tests. The FTC should require a prominent on-screen label.

3. Assess disparate impacts and protect vulnerable consumers from being singled out through proxies.

Even if a company claims it does not use protected characteristics, algorithmic systems can replicate inequities through location, device, shopping patterns, and other proxies. The FTC should evaluate whether these practices disproportionately harm low-income communities or other vulnerable groups and require mitigation where harms are identified.

4. Consumer recourse and refunds: Require Instacart to provide item-level receipts showing any price-testing impacts

Create a one-click refund/credit process for consumers charged more during AI pricing experiments, and establish a dedicated complaint portal with monthly reporting to the FTC on complaints received, refunds issued, and corrective actions taken.

5. Provide a public accountability timeline and commit to regular updates to Congress.

Within 30 days, provide a written update to my office detailing the next actions anticipated; and what consumer-facing remedies and transparency measures the FTC is pursuing.

Families In New York should not be forced to wonder if Instacart is using an undisclosed AI system quietly squeezing them for more. Immediate action.

Sincerely,



Charles E. Schumer
United States Senator