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Via regulations.gov

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Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580

Re: Docket FTC-2026-1057

On August 19, 2026, the Federal Trade Commission (FTC or Commission) invited public comment on its *Proposed Enforcement Policy Statement Regarding Personalized Pricing* (Proposed Standard).¹ The FTC defines “personalized pricing” as when businesses utilize “modern data collection and processing capabilities...to set personalized prices based on analysis of consumers’ personal data and resulting conclusions.”² The FTC has proposed not to designate the usage of personalized pricing as a deceptive business practice, but only for businesses that “clearly and conspicuously disclose” the use and provide the “basis for that personalization and the types of data on which the personalization is based.”³ The Proposed Standard does not seek to prohibit existing and understood programs, such as student discounts or loyalty programs. Importantly, The Proposed Standard drew significant public attention, with over 950 public comments submitted prompting the Commission to extend the comment period by one week through September 25, 2026.⁴ GAMA: the Tabletop Game Association (GAMA) here adds its voice to those public comments.⁵

GAMA opposes personalized pricing and supports efforts to prevent its usage in the areas identified by the Commission, even when such usage is disclosed. But the FTC’s Proposed Standard is a step in the right direction. GAMA therefore supports this partial step, with the proviso that the FTC should specify that providing a basis for such personalization and how personalization decisions conducted must be provided to any individual in a comprehensive, personalized, and easily digestible

¹ FTC, FTC Seeks Comment on Enforcement Policy Statement Regarding Personalized Pricing (accessed online at <https://www.ftc.gov/news-events/news/press-releases/2026/08/ftc-seeks-comment-enforcement-policy-statement-regarding-personalized-pricing> on Sept. 9, 2026).

² FTC, FTC’s Proposed Enforcement Policy Statement Regarding Personalized Pricing at 1 (Aug. 19, 2026) (accessed online at <https://www.ftc.gov/legal-library/browse/federal-trade-commissions-proposed-enforcement-policy-statement-regarding-personalized-pricing> on Sept. 9, 2026) (hereinafter Proposed Standard).

³ Proposed Standard at 1.

⁴ FTC, FTC Extends Public Comment on Proposed Policy Statement Regarding Personalized Pricing (accessed online at <https://www.ftc.gov/news-events/news/press-releases/2026/09/ftc-extends-public-comment-proposed-policy-statement-regarding-personalized-pricing> on Sept. 9, 2026).

⁵ GAMA was formed in 1977 to protect the interests of the Origins Game Fair. It incorporated as a non-profit organization in 1982. Since then, it has expanded to become the premier trade association for the hobby games industry. GAMA today boasts over 1,800 members encompassing tabletop game designers, publishers, retailers, distributors, manufacturers, and tabletop-focused media and events businesses. Its mission is to promote the general interest of all persons engaged in the buying, selling, licensing, and manufacturing of hobby game products. To that end, GAMA provides member affinity programs such as toolkits, trade and consumer shows, education programs, and advocacy efforts to advance its members’ collective economic welfare. GAMA envisions a world where tabletop games are a broadly pursued pastime and where all engaged in the business of selling them can do so profitably and comfortably.

written summary of how the company⁶ collects data on the individual, the databases queried or variables considered, any consumer categories built from that data for internal analysis, and what personalized pricing offers are made based on such assessments, and whether those offers result in higher or lower prices than those offered to an average customer. Businesses that wish to avoid their personalized pricing policies being designated as unfair or deceptive acts should be required to provide this information at no charge to the customer and, for those with online account systems, to place hyperlinks or similar access methods as prominently as they place options to login to an account or to make one. The Proposed Standard should also allow customers to opt-out of personalized pricing programs and prohibit data sharing between the data brokers and middlemen who actually crunch the data when they are servicing different clients.

GAMA is interested in what Proposed Standard the FTC adopts because it represents retailers and publishers engaged in direct-to-consumer sales who might be subject to enforcement of the Proposed Standard in online or physical marketplaces.⁷ Opposed member publishers⁸ may also, in an effort to prohibit doing business with retailers who engage in personalized pricing (whether or not disclosed), incur legal costs to update their supply agreements. As a trade association, if GAMA's members are affected by the Proposed Standard, the association's interests are impacted as well.⁹ Personalized pricing practices will damage GAMA member companies by undermining trust between consumers and retailers and between consumers and publishers that engage in direct sales and by further tilting the playing field in favor of large commercial operators.

Personalized Pricing & Previous Actions Described

"Increased access to computational power, advancements in machine learning and artificial intelligence and access to third party specialized pricing products and services have enabled companies to develop pricing strategies tailored to detailed consumer characteristics."¹⁰ These efforts are also known as personalized pricing or surveillance pricing. "There are several variables that can impact what products a consumer is shown or what prices (including promotions or discounts) a consumer might be offered. These include *where* the customer is, *who* the customer is, *what* the consumer is doing, and *prior actions* a consumer has taken."¹¹ Data analytics companies serving this data to companies "can potentially offer targeted pricing that uses customers' characteristics, interactions, and purchases to produce a personalized price, discount, or quote based on an estimate of their price sensitivity."¹² As of

⁶ Or its agent.

⁷ Federal Trade Commission FTC SURVEILLANCE PRICING 6(B) STUDY: RESEARCH SUMMARIES A STAFF PERSPECTIVE 3 (Jan. 2025) (hereinafter FTC Study).

⁸ GAMA's membership is divided into multiple categories that could be affected by the Proposed Standard, including retailers that sell to consumers (both at brick-and-mortar locations, online, or both), creators (who design and develop games), publishers (who pay for printing of the games), and distributors (who act as traditional middlemen between publishers and retailers). Because the interests of the publisher and creator interests are similar regarding this issue, this comment will refer to both as "publishers." Because distributors primarily operate via online marketplaces that sell to retailers (and which are less likely to be impacted by the Proposed Standard due to the historical nature of the wholesale to retail marketplace), their interests and those of retailers are similar and both groups will be referred to as "retailers." GAMA has two other voting membership categories, manufacturers and media/events, that are unlikely to be affected by the Proposed Standard but which, nevertheless, support the association's position regarding the Proposed Standard.

⁹ *Friends of the Earth Inc. v. Laidlaw Environmental Serv.*, 528 U.S. 167, 181 (2000) ("An association has standing to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.")

¹⁰ FTC Study at 5.

¹¹ FTC Study at 6.

¹² FTC Study at 6-7.

January 2025, over 250 companies known to the FTC were actively experimenting with personalized pricing, including grocery stores, apparel retailers, home goods/furnishing stores, convenience stores, hardware stores, and general merchandise retailers.¹³

These experiments are wildly unpopular with consumers and almost universally seen as immoral.¹⁴ Consumers report the practice as deceptive.¹⁵ The FTC's mission is to prevent such unfair methods of competition and unfair or deceptive acts in commerce.¹⁶ Several states have already taken action to make personalized pricing illegal overall or in certain sectors.¹⁷ Other states legislatures have considered similar action.¹⁸

The U.S. House of Representatives Committee on Oversight and Government Reform has launched an investigation into the practice.¹⁹ The U.S. Senate Judiciary Committee's Subcommittee on Crime and Counterterrorism held a hearing on the practice in August.²⁰ At that hearing, the Senators discussed S.4746, the American Innovation and Choice Online Act (AICOA), a bill co-sponsored six Senators including by the Committee Chairman, the Committee's Ranking Member, the Chairman and Ranking Members of the Subcommittee, and the Ranking Members of three other Judiciary Committee subcommittees.²¹ Importantly, S.4746 was assigned to the Judiciary Committee, which is tasked with "[p]rotection of trade and commerce against unlawful restraints and monopolies" rather than the Committee on Commerce, Science, and Transportation, which governs most matters related to the regulation of legitimate commercial activity.²² In a press release announcing the AICOA, the Senators announced their intent to "restore online competition and affordability by preventing the world's largest digital platforms from *abusing their market power* to stifle competition, undercut online businesses and raise prices for American consumers."²³

¹³ FTC Study @ 7.

¹⁴ CR Survey Research Dep't AMERICAN EXPERIENCES SURVEY (Jan. 2025) (hereinafter Pricing Consumer Report); Consumer Reports Survey Group A.I./ALGORITHMIC DECISION-MAKING 4 (accessed online at <https://advocacy.consumerreports.org/wp-content/uploads/2024/07/CR-AES-AI-Algorithms-Report-7.25.24.pdf> on Sept. 14, 2026) (July 9, 2024) (hereinafter A.I. Consumer Report).

¹⁵ *Id.*

¹⁶ 15 USC § 45(a) (2026).

¹⁷ See Maryland Protection from Predatory Pricing Act (accessed online at <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/hb0895/?ys=2026rs> on Sept. 14, 2026) (Apr 28, 2026).

¹⁸ See Folks, Andrew Midyear Personalized Pricing Roundup (accessed online at <https://technologylaw.fkks.com/post/102n1er/midyear-personalized-pricing-roundup> on Sept. 14, 2026) (June 9, 2026) (summarizing state legislature action on personalized pricing legislation).

¹⁹ Comer Investigates Use of Artificial Intelligence to Set Prices for Consumers (accessed online at <https://oversight.house.gov/release/comer-investigates-use-of-artificial-intelligence-to-set-prices-for-consumers/> on Sept. 13, 2026) (March 5, 2026) (announcing the investigation and providing copies of letters demanding information to five companies in the vacation booking, local ridesharing, and grocery delivery industries).

²⁰ Your Data, Their Profit: The Consumer Cost of AI Surveillance Pricing (accessed online at <https://www.judiciary.senate.gov/committee-activity/hearings/your-data-their-profit-the-consumer-cost-of-ai-surveillance-pricing> on Sept. 14, 2026) (Aug. 4, 2026).

²¹ (accessed online at <https://www.congress.gov/bill/119th-congress/senate-bill/4746/cosponsors> on Sept. 13, 2026) (listing co-sponsors; co-sponsors do not add up because Judiciary Committee Ranking Member Sen. Richard Durbin also acts as the Ranking Member for the Subcommittee on Crime and Counterterrorism).

²² Compare STANDING RULES OF THE SENATE Doc. 113-18 § XXV(1)(f), (m)(16) (accessed online at <https://www.rules.senate.gov/rules-of-the-senate> on Sept. 13, 2026) (Jan. 24, 2013) (delineating jurisdiction of the two committees).

²³ U.S. Senate Committee on the Judiciary, GRASSLEY, KLOBUCHAR INTRODUCE BIPARTISAN LEGISLATION TO LOWER PRICES, EXPAND CONSUMER CHOICE AND RESTORE ONLINE COMPETITION IN THE DIGITAL MARKETPLACE (June 11, 2026) (accessed online at <https://www.judiciary.senate.gov/press/rep/releases/grassley-klobuchar-introduce-bipartisan-legislation-to-lower-prices-expand-consumer-choice-and-restore-online-competition-in-the-digital-marketplace> on Sept. 13, 2026) (emphasis added).

GAMA is not aware of any actions at the state or federal level in favor of personalized pricing or surveillance pricing. Taken together, these facts establish that the American public overwhelmingly views personalized pricing as unfair. Several states have acted on these views. And, while Congress has not legislated on the matter, the only steps it has taken are to restrain the practice, rather than to encourage it. And that's not surprising. According to a report by the OECD, "In theory, if personalized pricing resulted in perfect or first degree price discrimination, the economic surplus would be entirely captured by the producer, reducing consumer welfare to zero."²⁴ "[I]f these practices are conducted using non-transparent or deceptive means, there is also a risk that they reduce market trust and create a perception of unfairness, potentially dampening consumer participation in...markets."²⁵

GAMA's Opposition to Personalized Pricing

GAMA opposes personalized pricing practices, as defined by the Proposed Standard, whether or not those efforts are disclosed. The Proposed Standard would require businesses to "clearly and conspicuously disclose" any personalized pricing practices. Personalized pricing is anti-consumer, and businesses should not engage in it. GAMA believes that the FTC has the authority to declare the use of personalized pricing as an unfair or deceptive act or practice and should do so, despite the FTC's statement that "Congress has not given the Commission the authority to prohibit personalized pricing in all circumstances."²⁶ Any personalized pricing disclosure, no matter how well-designed, is unlikely to be communicated to consumers in a manner that adequately educates them of the broad expanse to which their data may be used. The FTC has broad authority to investigate and prohibit deceptive business practices.²⁷ The FTC should reconsider its conclusion that it lacks the authority to designate all personalized pricing practices as unfair and deceptive.

But if the FTC must retreat to allowing personalized pricing when companies disclose its use, it is vital that the FTC establish stringent disclosure standards that require these companies to disclose in a manner that is both conspicuous and understandable to the average consumer. Disclosures required under current state laws are voluminous, without any explanation about how all that data is collated and analyzed to make personalized price offerings.²⁸ Accordingly, the FTC should:

- Require businesses to provide personalized pricing information at no charge to the customer and, for those with online account systems, to place hyperlinks or similar access methods as prominently as they place options to login to an account or to make one,
- Require businesses offering personalized pricing to provide consumers with the ability to opt-out of personalizing pricing programs without similarly removing their eligibility for pre-existing discount programs not intended to be affected by the Proposed Standard, and
- Prohibit the sale of data generated by one personalized pricing program from being sold to other parties.

²⁴ Organization for Economic Co-operation and Development Personalised [sic] Pricing in the Digital Era at 20 (Nov. 28, 2018) (hereinafter OECD Report).

²⁵ OECD Report at 2.

²⁶ Proposed Standard at 1.

²⁷ *FTC v. Brown Shoe Co.*, 384 U.S. 316, 320-21 (June 6, 1966)

²⁸ See Rogers, Reece "McDonald's Built a 515-Page Dossier on Me. It Says I'll Never Stop Eating There" WIRED MAGAZINE (accessed online at <https://www.wired.com/story/mcdonalds-built-a-515-page-dossier-on-me-it-says-ill-never-leave/> on Sept. 13, 2026) (Aug. 12, 2026).

Failure to Provide Robust Disclosure Undermines Trust Between Businesses and their Customers

GAMA's membership is, almost universally, comprised of small businesses that operate under a model where a trust relationship between the vendor and the customer is essential.²⁹ Whether that's in the traditional local game store or between a publisher and a fan/customer at a gaming convention, that relationship is what powers the industry. Americans have spoken overwhelmingly that they view personalized pricing as unfair and that it damages trust between the vendor and the customer.³⁰ As the Proposed Standard notes, "When consumers walk into a retail store...they reasonable expect the price on the shelf to be the same price offered to any other consumer shopping at the same store at the same time."³¹ Given the size of the median tabletop gaming company—whether publisher or retailer—most producers cannot afford to implement personalized pricing without damaging this relationship, even if they wanted to do so. But, given the necessity of trust between these groups in the industry, only an overwhelming release of data about how personalized prices are built and offered would be available to a producer in the tabletop space, if it were possible at all.

This is especially the case for GAMA's 830 retailer members. The median GAMA retailer operates a two- to three thousand square-foot facility with a substantial portion of that area devoted to hosting play space.³² A tabletop gaming retailer is not just a retail enterprise. It functions as a "third space," where gamers can congregate and socialize outside of their home or workplace.³³ Third spaces are under threat.³⁴ Those that can do so increasingly court wealthier customers, pricing out average consumers.³⁵ For both market and philosophical reasons, tabletop gaming stores, often referred to as a "friendly, local game store," (FLGS) remain one area where an individual can spend time in a leisure activity with friends for under five dollars an hour—and oftentimes can do so for free. And the vast majority of FLGSs out there are owned by a single individual or family, making them uniquely responsive to the needs and desires of their customer community.³⁶

Publishers might have a greater physical distance from their customer base, but that distance does not exist psychologically. According to the most recent industry survey, the total tabletop industry—comprised of trading card games, board games, miniatures games, roleplaying games, and

²⁹ See GAMA 2024 GAMA RETAILER SURVEY RESULTS (accessed online at https://cdn.ymaws.com/www.gama.org/resource/resmgr/documents/reports/retailer_survey_key_results_.pdf on Sept. 13, 2026) (Jan. 2025) (showing only 4.44% of GAMA retail members brought in more than \$4 million in 2024 sales); US Small Business Administration TABLE OF SMALL BUSINESS SIZE STANDARDS at 22 (accessed online at https://legacy.sba.gov/sites/default/files/2023-06/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%282%29.pdf on Sept. 13, 2026) (setting the threshold for small business in the Hobby, Toy, and Game Retailers category at \$35 million annually).

³⁰ See *generally* Pricing Consumer Report; OECD Report.

³¹ Proposed Standard at 2.

³² GAMA Retailer Survey at 2, 7 (breaking down retailers by square footage and reporting that 91.30% of retailers offer a dedicated events space in their store).

³³ Gonzales, Yvonne, Abstract for "Queering the Third Place: Dungeons & Dragons at Your Friendly Local Game Store" at 2 PROCEEDINGS OF DIGITAL GAMES RESEARCH ASSOCIATION (accessed online at <https://dl.digra.org/index.php/dl/article/view/3095/3079> on Sept. 13, 2026) (June 14, 2026) ("Despite the wide loss of game shops during the height of the pandemic, there is a massive demand for a physical space in which to exist with other nerds...").

³⁴ Chafkin, Max and Stacey Vanek Smith "The Great American Fun Shortage of 2026" BLOOMBERG BUSINESSWEEK (accessed online at <https://www.bloomberg.com/news/articles/2026-07-10/the-great-american-fun-shortage-of-2026> on Sept. 13, 2026) (July 10, 2026) ("the kinds of businesses that encourage socialization and friendship — essential ingredients in well-being — have been dwindling...there are fewer and fewer opportunities for fun, and the fun that's left is increasingly expensive.").

³⁵ *Id.*

³⁶ GAMA Retailer Survey at 2 (95.16% of FLGSs are independent stores).

accessories—amounted to \$3.66 billion in 2025, divided across thousands of game publishers and roughly 5,000 North American retailers.³⁷ Trading card games comprise the bulk of this at \$2.49 billion divided among a handful of producers.³⁸ Remove these, and tabletop gaming constitutes \$1.17 billion split across thousands of producers. Many of these producers compete in a manner like retailers, by building para-social networks that allow their customers feel close to the designers and producers. Whether they are producing design diaries,³⁹ tutorial videos (including those produced by fans),⁴⁰ live play videos,⁴¹ or in-person appearances at gaming conventions,⁴² these producers need the trust of their consumer base to succeed in the current hobby games market.

Margins are exceptionally tight in tabletop retail and publishing and most produces trade on trust. Accordingly, “expectations of non-personalized pricing...factor into consumers’ decisions regarding where to shop, whether and where to comparison shop, and other important considerations.”⁴³ Customer rapport is required for success, not just an option. Americans overall overwhelmingly oppose the practice. Strong customer relationships are essential in the tabletop gaming industry. Accordingly, tabletop gaming retailers and publishers are unlikely to engage in the practice at all, but agree that if a company were to do so that it should have to account for how it does so clearly and explicitly.

Need to Provide Opt Outs

When considering the issue of personalized pricing, an international body of experts found that, “An approach that might be particularly useful to consider is to qualify as unfair any personalized pricing that is non-transparent *or does not provide consumers with an option to opt out.*”⁴⁴ The Proposed Standard is a good step towards the former but does not allow for the latter. The Proposed Standard only provides that:

Where consumers reasonably expect that prices for a product or service will not vary based on their personal data, businesses that engage in personalized pricing should clearly and conspicuously disclose not just that the price is personalized, but also the basis for that personalization and the types of data on which the personalization is based.⁴⁵

The FTC should expand the Proposed Standard to consider any personalized pricing offer that does not also allow for consumers to opt out of the data tracking that underpins it as an unfair and deceptive trade practice. The best practice in all data management is to give consumers as much control over their data as possible, including the decision not to have that

³⁷ Griep, Milton “Big Growth in Hobby Games in 2025” ICv2 (accessed online at <https://icv2.com/articles/markets/view/62035/big-growth-hobby-games-2025> on Sept. 13, 2026) (Apr. 3, 2026).

³⁸ Griep, Milton “Pro: In-Depth: Big Growth in Hobby Games in 2025” ICv2 (Apr. 3, 2026) (accessed online at <https://icv2.com/articles/icv2-pro/view/62034/in-depth-big-growth-hobby-games-2025> on Sept. 13, 2026).

³⁹ E.g. Pirates, Dragons, Treasure 2nd Edition and Booster Pack UPDATE 2 (accessed online at <https://www.kickstarter.com/projects/pdtgames/pirates-dragons-treasure-2nd-edition/posts/4685940> on Sept. 13, 2026) (May 12, 2026).

⁴⁰ E.g. <https://www.youtube.com/watch?v=wif9ppH5JpI> (Oct. 16, 2020).

⁴¹ E.g. <https://www.youtube.com/@criticalrole>.

⁴² E.g. Parakeet Griffin Games FAIRY TALE CAMPAIGN TRAIL (accessed online at <https://www.parakeetgriffingames.com/> on Sept. 13, 2026).

⁴³ Proposed Standard at 2.

⁴⁴ OECD Report at 35. (emphasis added).

⁴⁵ Proposed Standard at 1.

data collected at all.⁴⁶ While we are often loath to admit it in the tabletop gaming industry, sometimes the easiest way to win the game is not to play at all.

Need to Prohibit Data Transfers Between Data Broker Customers

Finally, the FTC should recognize that personalized pricing is almost never built solely by the companies offering personalized prices. Rather, these companies rely on outside data brokers and analytics companies to build customer profiles and algorithms to analyze their customers.⁴⁷ While this poses a dangerous problem, the real issue arises when these outside data analytics programs can combine their data from multiple customers to build a meta-profile on consumers. This situation is most likely to arise in smaller industries—like tabletop gaming—where few if any companies have the knowledge and resources to build their own customer analytics programs.

This has already happened in the apartment rent-setting industry, where a single data provider was able to aggregate data from a swathe of renters to artificially inflate rents to the detriment of the market as a whole.⁴⁸ In that case, apartment management companies collectively used a single data provider to set their rates.⁴⁹ Because the outside data provider could rely on other information, they were able to set rental rates above those that likely would have prevailed in a free market, reducing consumer surplus.⁵⁰ Essentially, this practice allowed for “back door” collusion through a third party. This is already prohibited for trade associations and should not be allowed to become common practice through the use of data middlemen.⁵¹ This practice resulted in a proposed \$360 million settlement against the data provider and its apartment clients currently preliminarily approved by the United States District Court for the Middle District of Tennessee.⁵²

It is not difficult to imagine such a practice spreading to other industries if not prevented by the Proposed Standard. This practice is not very different than companies generating personalized prices that are based off data from multiple clients that share a single personalized pricing provider. The similarities far outweigh the difference. The market is different, but the practice is identical. If not prevented by the Commission, such practices are likely to prevail in other industries offering personalized pricing. Given the potential for abuse here, the Commission should add provisions to the Proposed Standard that would allow

⁴⁶ Electronic Frontier Foundation EFF’s RECOMMENDATIONS FOR CONSUMER DATA PRIVACY LAWS (June 17, 2019) (Data collection rules “should require the operators of online services to obtain opt-in consent to collect, use, or share personal data, particularly where that collection, use, or transfer is not necessary to provide the service.”)

⁴⁷ FTC Report at 7 (“[I]ntermediaries currently work with at least 250 clients that sell goods or services to some combination of consumers and businesses.”)

⁴⁸ District of Columbia Office of the Attorney General Attorney General Schwalb Secures \$9.3 Million from Two DC Landlords in RealPage Price-Fixing Scheme (accessed online at <https://oag.dc.gov/release/attorney-general-schwalb-secures-93-million-two-dc> on Sept. 14, 2026) (Sept. 14, 2026) (Apartment renters “face severe housing affordability challenges, and yet some of the largest residential landlords made things worse by illegally colluding to artificially push rents even higher.”)

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Maple Flooring Mfr’s Ass’n v. US*, 268 U.S. 563, 583 (1925) (“Restraint upon free competition begins when improper use is made of that information through any concerted action which operates to restrain the freedom of action of those who buy and sell.”).

⁵² *In re: RealPage, Inc. Rental Software Antitrust Litigation (No II)* (accessed online at <https://www.realpagerentalsettlement.com/> on Sept. 14, 2026).

companies in the same industry to collude via the backdoor of sharing large datasets that are ostensibly collected only for that company to provide its own personalized pricing programs.

Conclusion

Thank you for the opportunity to comment on the Proposed Standard. GAMA supports healthy competition and traditional discount programs. However, GAMA does not support personalized pricing. While GAMA understands that the Commission believes that it needs explicit Congressional authorization to prohibit personalized pricing in toto, GAMA believes the Commission does have such authority and should prohibit the practice.

Absent a total ban, GAMA supports the Proposed Standard with modifications. The Proposed Standard would provide important consumer protections, while allowing producers to offer customary discount programs like student discounts, veteran discounts, loyalty programs, and other discounts not offered to only a single individual based on their personal data. GAMA believes that the following changes to the Proposed Standard will improve consumer outcomes and preserve consumer surpluses:

- The FTC should clarify that all data released to consumers must be comprehensive and include any conclusions about categories, classifications, or programs that the customer has been placed into by the program and the methodology for making that decision;
- The FTC should clarify that personalized pricing programs that do not offer consumers the opportunity to opt-out (or better yet, require consumers to affirmatively opt-in) are unfair and deceptive trade practices, and
- The FTC should clarify that sharing customer data between competitors is an unfair and deceptive trade practice because it is likely to lead to back door collusion, increasing prices outside of other market means and artificially reducing consumer surplus.

If you wish to discuss this matter in greater detail, please contact the undersigned.



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