

"(e) Appeals.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Attorney General. Any such determination, except the determination of the amount of an award if the award was made in accordance with subsection (b), may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Attorney General. The court shall review the determination made by the Attorney General in accordance with [section 706 of title 5](#), United States Code."

Subtitle C—Restricting Algorithmic Pricing

SEC. 1131. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds the following:

(1) Prices for essential goods and services, including groceries, rent, residential housing, utilities, and health care, have increased substantially in recent years, contributing to widespread economic hardship for households across the United States.

(2) Algorithmic pricing systems influence prices in markets where these increases have occurred, including food staples, residential rents, and other essential goods and services.

(3) Practices that artificially raise, align, or stabilize prices among competitors are unlawful when conducted directly through human communication, and the use of an algorithmic intermediary does not alter the unlawful nature of such conduct.

(4) Certain pricing algorithms rely on nonpublic competitor data or function as shared systems across multiple competing firms, thereby replicating or magnifying forms of price coordination that would violate long-standing antitrust prohibitions if engaged in through direct interaction.

(5) Algorithmic pricing systems used in concentrated markets can produce supracompetitive prices even without explicit agreements among competitors, undermining the competitive process that Congress has sought to protect for generations.

(6) Individualized pricing based on surveillance data enables discrimination among consumers, exploits behavioral vulnerabilities, and imposes higher prices on those least able to pay.

(7) Transparency, accountability, and oversight are necessary to ensure that algorithmic pricing systems do not facilitate coordination, manipulation, discrimination, or reductions in output.

(8) It is necessary for Congress to update Federal law to ensure that the principles of fair competition established over the past century remain effective in the digital and algorithmic era.

(b) Purpose.—The purpose of this subtitle is to—

(1) prohibit the use of shared or collusive pricing algorithms that incorporate nonpublic competitor data or perform coordinating functions among competitors;

(2) prohibit surveillance-based individualized pricing and other discriminatory algorithmic pricing practices; and

(3) provide enforcement mechanisms to ensure fair pricing, protect consumers, and preserve competitive markets.

SEC. 1132. DEFINITIONS.

(a) For purposes of this subtitle:

(1) Antitrust laws.—The term "antitrust laws"—

(A) has the meaning given that term in section 1 of the Clayton Act ([15 U.S.C. 12](#)); and

(B) includes section 5 of the Federal Trade Commission Act ([15 U.S.C. 45](#)).

(2) Automated decision system.—The term "automated decision system"—

(A) means a system, software, or process that uses computation, the result of which is used to assist or approximate human decision making; and

(B) includes a system, software, or process derived from machine learning, statistics, or other data processing or artificial intelligence techniques.

(3) Bona fide discount.—The term "bona fide discount" means an offered price that is lower than the genuine price at which a product or service is widely offered to the public on a regular basis for a reasonably substantial period of time and not for the purpose of establishing a fictitious price to enable the subsequent offer of a reduction.

(4) Business of insurance; credit.—The terms "business of insurance" and "credit" have the meaning given such terms in section 1002 of the Consumer Financial Protection Act of 2010 ([12 U.S.C. 5481](#)).

(5) Commercial terms.—The term "commercial terms" means—

(A) level of service;

(B) availability;

(C) output, including quantities of products produced or distributed or the amount or level of service provided; or

(D) rebates or discounts made available.

(6) Commission.—The term "Commission" means the Federal Trade Commission.

(7) Common pricing algorithm.—The term "common pricing algorithm" means any pricing algorithm that is used, licensed, supplied, deployed, or otherwise made available to 2 or more persons that compete in the same market or a related market, and that is designed, marketed, offered, or used to coordinate, align, or stabilize prices or commercial terms among such persons, irrespective of whether the algorithm's outputs to each user are identical.

(8) Distribute; distribution; distributing.—The terms "distribute", "distribution", and "distributing" include selling, licensing, providing access to, or otherwise making available by any means, including through a subscription or the sale of a service.

(9) Essential goods and services.—The term "essential goods and services" means goods and services necessary for health, safety, subsistence, or ordinary participation in economic and civic life, including groceries, residential housing, utilities, and health care, and such other goods and services as the Commission may designate by rule.

(10) Genetic information.—The term "genetic information" has the meaning given such term in section 2791(d) of the Public Health Service Act ([42 U.S.C. 300gg–91\(d\)](#)).

(11) Individualized price.—The term "individualized price" means a price or commercial term offered to a specific individual or household that differs from the price or commercial term offered contemporaneously to similarly situated buyers for the same good or service.

(12) Nonpublic competitor data.—The term "nonpublic competitor data" means data that consists of, is derived from, or otherwise reflects another person's nonpublic pricing or commercial information, where such other person competes in the same market or a related market, whether or not such data is attributable to a specific competitor and whether or not such data is anonymized.

(13) Nonpublic pricing or commercial information.—The term "nonpublic pricing or commercial information" means information regarding a person's prices or commercial terms that is not publicly available or readily accessible to the public.

(14) Person.—The term "person" has the meaning given that term in section 1 of the Clayton Act ([15 U.S.C. 12](#)).

(15) Personal information.—The term "personal information" means any quality, feature, attribute, or trait of an individual, including any immutable characteristic, any mutable characteristic, genetic information, and any other information that could reasonably be linked, directly or indirectly, with a particular individual or household.

(16) Price.—The term "price" means the amount of money or other thing of value, whether tangible or not, expected, required, or given in payment for any product or service.

(17) Pricing algorithm.—The term "pricing algorithm" means any computational process, including a computational process derived from machine learning or other artificial intelligence techniques, that processes data to recommend or set a price or commercial term that is in or affecting interstate or foreign commerce.

(18) Surveillance-based price setting.—The term "surveillance-based price setting" means using an automated decision system to offer or inform a customized price for a good or service for a specific person or consumer, or group of people or consumers, based, in whole or in part, on surveillance data.

(19) Surveillance data.—The term "surveillance data"—

(A) means data obtained through observation of an individual that is related to the personal information, behavior, biometrics, or other characteristics of the individual or of any group or category in which the individual belongs; and

(B) includes data gathered, purchased, inferred, derived, or otherwise acquired.

SEC. 1133. PROHIBITION ON COLLUSIVE PRICING ALGORITHMS.

(a) In general.—It shall be unlawful for a person to use or distribute any pricing algorithm that—

(1) uses, incorporates, or was trained with nonpublic competitor data;

(2) is a common pricing algorithm; or

(3) receives from another person nonpublic pricing or commercial information, if the person using or distributing the pricing algorithm knows or has reason to know that the pricing algorithm is a common pricing algorithm.

(b) Presumption of collusion.—With respect to the use of a pricing algorithm that would violate subsection (a), there shall be a presumption for purposes of section 1 of the Sherman Act ([15 U.S.C. 1](#)) that the defendant entered into an agreement, contract, combination, or conspiracy in restraint of trade, and for purposes of section 5(a)(1) of the Federal Trade Commission Act ([15 U.S.C. 45\(a\)\(1\)](#)) that the defendant has engaged in an unfair method of competition if the plaintiff establishes that—

(1) the defendant distributed the pricing algorithm to 2 or more persons—

(A) with the intent that such algorithm be used as a common pricing algorithm; or

(B) such algorithm was used by such 2 or more persons as a common pricing algorithm;

or

(2) the defendant knew or had reason to know that the pricing algorithm was a common pricing algorithm; and

(A) provided to the pricing algorithm, or to a person affiliated with the pricing algorithm, nonpublic pricing or commercial information; or

(B) used the pricing algorithm to set or recommend a price or commercial term of a product or service.

(c) Rebuttal.—The presumption under subsection (b) shall not apply to a defendant if the defendant did not develop or distribute the pricing algorithm and the defendant demonstrates by clear and convincing evidence that the defendant did not have actual knowledge, and could not reasonably have known, that the pricing algorithm violated subsection (a).

(d) Joint and several liability.—In a civil case in which the presumption under subsection (b) is applicable, any person that distributed the pricing algorithm and knew, or could reasonably have known, that the pricing algorithm violated subsection (a) shall be jointly and severally liable for any violation of section 1 of the Sherman Act ([15 U.S.C. 1](#)) or section 5(a)(1) of the Federal Trade Commission Act ([15 U.S.C. 45\(a\)\(1\)](#)).

(e) Relation to antitrust laws.—Nothing in this section shall impair or limit the applicability of the antitrust laws.

(f) Effective date.—This section shall take effect on the date that is 90 days after the date of enactment of this Act.

SEC. 1134. PROHIBITION ON SURVEILLANCE-BASED PRICE SETTING.

(a) In general.—It shall be unlawful for a person engaged in commerce to offer or charge different prices to different consumers for the same, or a substantially similar, product or service using, informed by, or based on, in whole or in part, surveillance data.

(b) Exceptions.—The following shall not be considered surveillance-based price setting for purposes of subsection (a):

(1) A difference in price that is based solely on reasonable costs associated with providing the product or service to different consumers, if the basis for such difference is disclosed to the consumer prior to purchase.

(2) A bona fide discount that is offered to any member of a broadly defined group, including teachers, active duty personnel, veterans, senior citizens, or students, if—

(A) any eligibility condition or criteria is clearly and conspicuously disclosed;

(B) such discount is offered uniformly to any consumer who meets the disclosed eligibility conditions or criteria; and

(C) any surveillance data used solely to offer or administer a bona fide discount is not used for any other purpose, including profiling, targeted advertising, or individualized price setting.

(3) A bona fide discount that is offered to any consumer who affirmatively and knowingly enrolls in a loyalty program, if—

(A) the conditions described in subparagraphs (A), (B), and (C) of paragraph (2) are met; and

(B) a loyalty program that allows a user to accrue and exchange points, credits, or any similar nonmonetary system of value for a product or service does not charge a different price for those points, credits, or similar nonmonetary system of value to different consumers for the same or substantially similar product or service.

(4) The offering or charging of different prices with respect to the business of insurance or any credit product.

SEC. 1135. ESSENTIAL GOODS AND SERVICES; RULEMAKING.

(a) In general.—Not later than January 1, 2028, the Commission shall promulgate rules governing the use of pricing algorithms with respect to essential goods and services.

(b) Scope.—Rules promulgated under this section shall identify and prohibit unfair, deceptive, or abusive acts or practices, and unfair methods of competition, involving the use of pricing algorithms with respect to essential goods and services.

(c) Factors.—In promulgating rules under this section, the Commission shall consider whether the use of a pricing algorithm—

(1) increases or aligns prices or commercial terms without a legitimate cost-based or other nonpretextual justification;

(2) reduces output, availability, or access;

(3) exploits acute demand, lack of substitutes, or consumer vulnerability;

(4) relies on surveillance data, nonpublic competitor data, or a coordinating function among competitors; or

(5) otherwise threatens competition, consumer protection, or fair access to essential goods and services.

SEC. 1136. TRANSPARENCY AND PRICING ALGORITHMS.

(a) Transparency in pricing algorithms.—

(1) In general.—Any person that has \$5,000,000 or more in annual revenue that uses a pricing algorithm to recommend or set a price or commercial term shall clearly disclose, before the customer purchases the relevant product or service, that the price or commercial term is set or recommended by a pricing algorithm.

(2) Additional disclosures.—

(A) Price discrimination.—A disclosure under paragraph (1) shall state if the pricing algorithm sets or recommends different prices or commercial terms for different customers seeking identical or nearly identical products or services.

(B) Third-party algorithm.—If applicable, a disclosure under paragraph (1) shall—

(i) state that the pricing algorithm was developed or distributed by a person other than the person making the disclosure; and

(ii) provide the identity of the person that developed or distributed the pricing algorithm.

(3) Additional disclosures for individualized pricing.—Any person that uses a pricing algorithm to set or recommend an individualized price shall maintain and make publicly available, in a clear and accessible manner—

(A) reasonable procedures to ensure the accuracy of any data used by the pricing algorithm for individualized price setting;

(B) a process by which a consumer may correct or challenge the accuracy of data used by the pricing algorithm for individualized price setting; and

(C) a disclosure of the categories of data considered by the pricing algorithm and the manner in which such data may affect the individualized price.

(b) Competition law enforcement audit.—

(1) In general.—A person using or distributing a pricing algorithm, upon a written request by the Attorney General or the Commission, shall, not later than 30 days after the date of the

written request, or any later date approved by the Attorney General or the Commission, respectively, provide to the Attorney General or the Commission, respectively, a written report on each pricing algorithm identified in the request.

(2) Report contents.—Each report under paragraph (1) shall include—

(A) information on whether the person is responsible for the development or distribution of the pricing algorithm, or whether a third party is responsible for the development or distribution of the pricing algorithm, including the identity and contact information of any other person responsible for the development or distribution of the pricing algorithm;

(B) information on whether the pricing algorithm autonomously sets prices or commercial terms and whether there is human review of any recommendation or decision of the pricing algorithm;

(C) an explanation of the rules or processes that the pricing algorithm uses to set or recommend prices or commercial terms;

(D) a description of all data the pricing algorithm uses to set or recommend prices or commercial terms, including data used to train the pricing algorithm;

(E) all sources and collection processes, including the frequency of collection, of any data that the pricing algorithm uses to set or recommend prices or commercial terms;

(F) whether the pricing algorithm engages in price discrimination by setting or recommending different prices or commercial terms for different customers seeking identical or nearly identical products or services, and if so, the factors used in differentiating among such customers; and

(G) any changes made to the pricing algorithm between the date of receipt of the request under paragraph (1) and the date of certification under paragraph (3).

(3) Certification of report.—The chief executive officer, chief economist, chief technology officer, or a corporate officer of similar authority of a person, or, if the person has no such officer, an individual with equivalent responsibility and authority, shall certify, under penalty of perjury, the accuracy of a report submitted under paragraph (1).

(4) Confidentiality.—All information submitted in a report under paragraph (1) shall be treated as confidential and shall be considered to be privileged and confidential trade secrets and commercial or financial information exempt under [section 552\(b\)\(4\) of title 5](#), United States Code, from being made available to the public under [section 552\(a\)](#) of such title.

(5) Information sharing.—

(A) In general.—A report under paragraph (1) may be shared—

(i) between the Department of Justice and the Commission; and

(ii) with the National Institute of Standards and Technology for technical assistance in understanding the report.

(B) Limitation.—The National Institute of Standards and Technology shall not disclose the contents of a report shared under subparagraph (A) or the analysis of the report to any person, except the Department of Justice or the Commission, whichever sought the technical assistance.

(6) Rules of construction.—Nothing in this subsection shall—

(A) limit the ability of the Commission or the Attorney General to issue a civil investigative demand, issue a subpoena, seek discovery in the course of litigation, or otherwise obtain information through other means available under law; or

(B) restrict the use of information submitted in a report under paragraph (1) in a formal investigation, enforcement action, litigation, trial, or other proceeding, in accordance with applicable confidentiality procedures.

(c) FTC study.—Not later than 2 years after the date of enactment of this Act, the Commission shall publish the results of a study of the use of pricing algorithms, including information on—

(1) the prevalence of pricing algorithms;

(2) the frequency of the use of pricing algorithms to engage in price discrimination;

(3) the potential for persons to use pricing algorithms to engage in behavior that increases prices, reduces output, lowers quality, deters innovation, or otherwise harms the competitive process outside of the price-fixing context;

(4) the potential benefits or efficiencies of pricing algorithms;

(5) any industries, sectors, or markets in which pricing algorithms may warrant additional oversight or regulation to protect competition and consumers; and

(6) recommendations for additional legislation, regulation, or rulemaking relating to competition and consumer protection issues arising from the use of pricing algorithms.

SEC. 1137. ENFORCEMENT.

(a) Treatment under Federal Trade Commission Act and antitrust laws.—Any violation of this subtitle, or any regulation promulgated under this subtitle, shall be treated as—

(1) a violation of section 5(a)(1) of the Federal Trade Commission Act ([15 U.S.C. 45\(a\)\(1\)](#)) as an unfair, deceptive, or abusive act or practice and as an unfair method of competition;

(2) a violation of a rule promulgated under section 18 of the Federal Trade Commission Act ([15 U.S.C. 57a](#)); and

(3) where applicable, a violation of section 1 of the Sherman Act ([15 U.S.C. 1](#)).

(b) Federal enforcement.—

(1) In general.—The Federal Trade Commission and the Attorney General shall enforce this subtitle, and any regulation promulgated under this subtitle, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and

provisions of the Federal Trade Commission Act ([15 U.S.C. 41 et seq.](#)) and the antitrust laws were incorporated into and made a part of this subtitle.

(2) Commission jurisdiction.—Notwithstanding section 4, 5(a)(2), or 6 of the Federal Trade Commission Act ([15 U.S.C. 44](#), [45\(a\)\(2\)](#), [46](#)), or any other jurisdictional limitation of the Commission, the Commission shall also enforce this subtitle, and any regulation promulgated under this subtitle, with respect to—

(A) common carriers subject to the Communications Act of 1934 ([47 U.S.C. 151 et seq.](#));

(B) organizations not organized to carry on business for their own profit or that of their members; and

(C) air carriers and foreign air carriers subject to [subtitle VII of title 49](#), United States Code.

(c) State enforcement.—

(1) In general.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of such State has been or is threatened or adversely affected by a violation of this subtitle or a regulation promulgated under this subtitle, the attorney general of the State may, as *parens patriae*, bring a civil action on behalf of the residents of the State in an appropriate State court or an appropriate district court of the United States to—

(A) enjoin such violation;

(B) enforce compliance with this subtitle or such regulation;

(C) obtain damages, restitution, civil penalties, or other appropriate relief; and

(D) obtain reasonable costs and attorneys' fees.

(2) Rule of construction.—Nothing in this subsection shall be construed to prevent a State attorney general from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, administer oaths or affirmations, or compel the attendance of witnesses or the production of documentary and other evidence.

(d) Private cause of action.—

(1) In general.—Any person injured by a violation of this subtitle or a regulation promulgated under this subtitle may bring a civil action in an appropriate State court or an appropriate district court of the United States to—

(A) enjoin such violation;

(B) recover damages, including treble damages where appropriate;

(C) obtain restitution or other equitable relief; and

(D) recover reasonable attorneys' fees and litigation costs.

(2) Special rule for claims under section 1134.—In any action under paragraph (1) alleging a violation of section 1134(a)—

(A) the plaintiff establishes a prima facie violation by demonstrating that—

(i) 2 or more individuals were offered different prices by the defendant for the same, or a substantially similar, product or service during the same, or a substantially similar, period of time; or

(ii) 1 individual was offered different prices by the defendant for the same, or a substantially similar, product or service during the same, or a substantially similar, period of time while using different means of viewing the price; and

(B) the defendant may rebut the prima facie showing under subparagraph (A) by demonstrating that the alleged difference in price was—

(i) not informed, in whole or in part, by surveillance data; or

(ii) fully explained by the exceptions described in section 1134(b).

(3) Limitation.—An action under this subsection may be commenced not later than 5 years after the date on which the person first discovered or had a reasonable opportunity to discover the violation.

(e) Remedies cumulative.—The remedies provided under this section are in addition to, and not in lieu of, any other remedies available under Federal or State law.

(f) No preemption of stricter State law.—Nothing in this subtitle shall be construed to preempt any State law that provides equal or greater protection against anticompetitive conduct, unfair methods of competition, or unfair, deceptive, or abusive acts or practices.

Subtitle D—Right to Repair

SEC. 1141. SHORT TITLE AND FINDINGS.

(a) Short title.—This subtitle may be cited as the "Right to Repair Act".

(b) Findings.—Congress finds the following:

(1) The Federal Trade Commission has extensively studied the ability of customers to repair the products they own and found that products have become increasingly difficult to repair due to manufacturer-imposed repair restrictions, including physical barriers, the unavailability of parts, manuals, tools, and diagnostic software, and the use of software locks and pairing technologies.

(2) Manufacturers often profit more from product replacement or steering consumers toward authorized repair networks than from permitting independent repair, creating incentives to restrict repair markets.

(3) The Federal Trade Commission's 2021 "Nixing the Fix" Report found limited evidence supporting claims that independent repair presents heightened safety, cybersecurity, liability, or quality risks.