



February 17, 2026

Senate Finance Committee
Attn: Tammy Kraft
3 East Miller Senate Office Building
Annapolis, Maryland 21401

Re: SB 387 - “Protection From Predatory Pricing Act” (Oppose)

Dear Chair Beidle, Vice Chair Hayes, and Members of the Senate Finance Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 387 unless amended. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ Proposed regulations on the interstate provision of digital services can therefore have a significant impact on CCIA members.

SB 387 Would Harm Competition As Drafted

While CCIA appreciates the bill’s concern with fair pricing practices, its overly broad definitions would create greater uncertainty for businesses, likely leading to higher prices and less innovation, ultimately harming, not protecting, consumers. The bill’s broad definition of “dynamic pricing”² risks deterring innovation by banning common retail practices, such as adjusting prices based on inventory levels, expiration dates, or competitive positioning. Moreover, this vague definition risks encompassing services and industries outside the bill’s scope.

The use of dynamic pricing to engage in anticompetitive conduct that excludes competitors or exploits a dominant firm’s market position is already illegal, and addressed under existing state and federal laws.³ A ban on dynamic pricing, which reduces retailers’ ability to offer better promotions and targeted discounts, would prompt retailers to adopt more conservative pricing strategies, leading to higher prices for consumers. Duplicative legislation is unnecessary and can create legal uncertainty for businesses, reducing their willingness to innovate and compete, ultimately leaving consumers worse off.

¹ For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² Maryland Senate Bill 387, Section 1, 13-321, (A)(3)(I), <https://mgaleg.maryland.gov/2026RS/bills/sb/sb0387F.pdf> (“‘Dynamic pricing’ means the practice of varying the prices of consumer goods or services within a business day based on demand or other factors, including through the use of artificial intelligence or models that retrain or recalibrate based on received information in near real-time.”).

³ See, e.g., Sherman Antitrust Act § 2, 15 U.S.C. § 2; Clayton Act § 2; Federal Trade Commission Act § 5, 15 U.S.C. § 45; Md. Code Ann., Com. Law §§ 13-301(1), 13-303.

General Considerations on Dynamic Pricing

The adoption of dynamic pricing strategies has increased across various sectors and industries, both online and offline, such as hospitality,⁴ concert tickets,⁵ and ridesharing.⁶ More recent iterations of dynamic pricing are further automated through the use of artificial intelligence (AI), which can aid or even surpass the need for human decision-making in designing pricing recommendations without needing advanced technical expertise.⁷

Dynamic pricing is not a new concept in food retail. When consumers buy products at local stores such as butchers and greengrocers, they can negotiate with the store owner and are likely to get a lower price later in the day, when the seller wants to clear remaining stock. Food retail and dynamic pricing have gone hand in hand for decades.⁸ The one thing that has changed is the use of new technologies in dynamic pricing, which creates more opportunities for retailers to apply this strategy and offers greater benefits for consumers. Dynamic pricing enables consumers to get products at lower prices.⁹ For retailers, dynamic pricing can allow them to increase customer satisfaction through lower prices and greater choices, optimize prices for different products, and better respond to market shifts.¹⁰

In many cases, dynamic pricing can also lead to lower, more competitive prices. For example, price comparison tools and dynamic pricing can help consumers find the best deals at any given time, saving them time and effort in searching for bargains. In addition, personalized pricing can lead to targeted discounts for consumers, allowing them access to better deals. The integration of AI in the grocery retail market has provided significant benefits not only to consumers but to small retailers as well, as they can analyze historical data and external factors to provide dynamic prices that allow them to optimize their stock levels and reduce waste.¹¹ Dynamic pricing allows grocers to adjust prices in real time based on a variety of factors, improving profitability and streamlining operations.¹²

⁴ See, e.g. KSolves, *Dynamic Pricing in Hospitality: Optimize Room Rates with Real-Time Data* (Mar. 12, 2025), <https://www.ksolves.com/blog/machine-learning/dynamic-pricing-in-hospitality>; The Globe and Mail, *Airlines increasingly using dynamic pricing for everything from luggage to legroom* (July 25, 2023), <https://www.theglobeandmail.com/investing/personal-finance/household-finances/article-airlines-dynamic-pricing-baggage-rate>.

⁵ See, e.g. Pricefx, *Ticketmaster's Dynamic Pricing: What it is and How it Works* (July 17, 2024), <https://www.pricefx.com/learning-center/ticketmasters-dynamic-pricing-what-it-is-and-how-it-works>.

⁶ See, e.g. Uber Blog, *How Uber's dynamic pricing model works* (accessed Feb. 6, 2026), <https://www.uber.com/en-GB/blog/uber-dynamic-pricing/>.

⁷ Maxime Cohen, Tim Spittle, & Jimmy Royer, *Assessing Algorithmic Versus Generative AI Pricing Tools*, Law360 (Sept. 16, 2024), at 1, https://awards.concurrences.com/IMG/pdf/09_assessing_algorithmic_versus_generative_ai_pricing_tools.pdf.

⁸ Catherine Fox, *Making the case for dynamic pricing in grocery*, dunnhumby (Aug. 6, 2025), <https://www.dunnhumby.com/resources/blog/price-value/en/dynamic-pricing-in-grocery/>.

⁹ *Id.*

¹⁰ Accenture, *Widening Gap Between Consumer Expectations and Reality in Personalization Signals Warning for Brands, Accenture Interactive Research Finds* (May 3, 2018), <https://newsroom.accenture.com/news/2018/widening-gap-between-consumer-expectations-and-reality-in-personalization-signals-warning-for-brands-accenture-interactive-research-finds>.

¹¹ KeHe, *The Ai Revolution in Grocery Retail: Transforming the Shopping Experience* (accessed Feb. 6, 2026), <https://www.kehe.com/news-blog/blog/the-ai-revolution-in-grocery-retail-transforming-the-shopping-experience/>.

¹² *Supra* n. 8.

AI can help retailers and consumers maximize the benefits of dynamic pricing. Pricing tools are designed to improve pricing and leverage data to improve decision-making. These tools can better help dynamic pricing optimization by analyzing factors such as cost, demand, and competitor pricing. Different variants include naïve methods, economic modeling-based tools, price-testing experiments, and advanced proprietary systems, among many others.¹³ Dynamic pricing tools can promote disruptive innovation that results in new and innovative products, enabling products and pricing that can be tailored to meet the specific needs of the consumer.¹⁴

Amending SB 387 to Avoid Chilling Competition and Innovation

CCIA recommends SB 387 be amended to clarify that “surveillance pricing” is limited to prohibiting increases in individualized pricing relative to a baseline price. Such an approach would help distinguish individualized price increases from price differences that may be attributable to the costs of providing goods to consumers, such as taxes or delivery costs. By avoiding broadly scoped definitions of “dynamic pricing,” a narrowly-targeted definition of “surveillance pricing” would not unfairly penalize retailers for engaging in common pricing practices, such as offering time-of-day discounts (e.g., discounting perishable food items near closing).

Firms often rely on consumer data to enhance products and provide better value to consumers. This is becoming increasingly important as new technologies help firms analyze large amounts of data to optimize prices and increase customer satisfaction.¹⁵ SB 387’s proposed definition of “surveillance data” is overly broad and risks prohibiting common business practices that companies rely on to quickly respond to changes in demand. To reduce legal uncertainty stemming from a novel and overly-broad definition, CCIA recommends amending SB 387 to protect “personal data” as defined under the Maryland Online Data Privacy Act.¹⁶

Beyond the substantive concerns regarding dynamic pricing tools, the inclusion of a private right of action in SB 387 risks inviting a wave of costly and often frivolous litigation. Unlike enforcement by state regulators, who are equipped to balance consumer protection with economic stability, private lawsuits empower plaintiffs’ attorneys to pursue expensive settlements for technical errors that may not have caused actual consumer harm. To maintain a fair and predictable regulatory environment, CCIA recommends amending SB 387 to ensure its enforcement is handled exclusively by the attorney general. The risks of ruinous liability findings and high legal defense costs are particularly salient for small and medium businesses. This can stifle the local business climate, as businesses may be forced to pass costs on to consumers or to forgo dynamic pricing innovations that drive local competitiveness.

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¹³ *Supra* n. 7, at 2.

¹⁴ Cody Taylor, *The Case for Algorithmic Pricing: Consumer Welfare, Market Efficiency, and Policy Missteps*, Mercatus Center (May 14, 2025), at 7, <https://www.mercatus.org/research/policy-briefs/case-algorithmic-pricing-consumer-welfare-market-efficiency-and-policy>.

¹⁵ CCIA, *Understanding AI: A Guide To Sensible Governance* (June 26, 2023), at 2, <https://ccianet.org/library/understanding-ai-guide-to-sensible-governance/>.

¹⁶ Md. Code Ann., Com. Law §§ 14-4601(W)(1).



For these reasons, CCIA respectfully urges the Committee to oppose SB 387. We appreciate your consideration of these comments and stand ready to provide additional information as Maryland lawmakers consider this legislation.

Sincerely,

Megan Stokes
State Policy Director
Computer & Communications Industry Association