August 7th, 2026
The Honorable Kathy Hochul, Governor of New York State
NYS State Capitol Building Albany, NY 12224
Re: The One Fair Price Act (S.8623B/A.9349B)

Dear Governor Hochul:

We write to you as a coalition of businesses, trade associations, and industry organizations regarding the One Fair Price Act (S.8623B/A.9349B), which recently passed both houses of the Legislature and is now before you for consideration. We appreciate the opportunity to share our perspective on this legislation, and we submit this letter in a constructive spirit, with the shared goal of getting this policy right for New York's consumers and businesses alike.

Accompanying this letter is a set of proposed redlines to the bill as currently drafted. We believe these changes address the concerns outlined below while fully preserving — and in some respects strengthening — the important goals the legislation sets out to achieve. We would welcome the opportunity to walk your staff through these proposed changes in detail.

We Share the Bill's Core Goal

We want to be unambiguous on this point: no one in our coalition believes that using a consumer's personal data to charge them a higher price than they would otherwise pay is fair, appropriate, or something New York should permit. We support the underlying purpose of this legislation, and we do not raise the concerns below to delay or defeat it. Our objective is a final law that stops that specific harm without causing collateral damage to practices that benefit New York consumers every day.

Our Central Concern: Unintended Impact on Discounts, Loyalty Programs, and Lower Prices

Our principal concern with the bill as drafted is that its current language would impair the ability of businesses to offer New Yorkers discounts, loyalty rewards, and reduced prices that depend on the responsible use of a customer's data to administer. These are not the practices this bill was designed to target — they are the everyday tools businesses use to lower costs for consumers. At a moment when New York is in the grip of an affordability crisis, we do not believe the state should enact a law that has the effect of reducing the number of discounts, promotions, and loyalty benefits available to New Yorkers, even unintentionally.

This is not a hypothetical risk. It is precisely why Colorado's Democratic Governor, Jared Polis, vetoed a nearly identical bill, HB26-1210, on June 2, 2026. In his veto message, Governor Polis explained that rather than "specifically defining and targeting unethical conduct and practices, the bill takes a broader approach to capture any technology that incidentally influences a price or wage amount," and that "because of the broad sweep, the bill would punish differentially lower prices, not just higher prices." He was direct about the consequence: "In practice, this means that many Coloradans won't get discounts on items they buy if I were to sign this." We respectfully urge you to consider that a Democratic governor, reviewing substantially similar legislation and weighing the same affordability concerns that animate this bill, reached the conclusion that it would do more harm than good to consumers precisely because of the drafting issues we raise here.

Discounts and Loyalty Programs Should Be Exempted Entirely, Not Conditionally Permitted

We appreciate that the bill's drafters attempted to preserve existing discount and loyalty programs through the definitions of "bona fide discount" and "bona fide custom discount." As currently structured, however, the bill only permits these programs to continue if they satisfy those definitions and various accompanying disclosure requirements. We do not believe tightening or clarifying these definitions is the right fix. Our request is that discounts and loyalty programs be exempted from the bill's scope altogether, rather than conditionally permitted subject to a definition and a disclosure regime.

The reason is a practical one: how a discount or loyalty program is defined, determined, and administered is not a one-size-fits-all matter. Every industry, and often every individual business, has its own methods and standards for structuring these programs. Any single statutory definition — no matter how carefully drafted — will inevitably fail to capture the full range of legitimate practices already in use across New York's economy, and will leave businesses exposed for programs that fall just outside its edges. This concern is not theoretical: there has already been significant, unresolved disagreement between industry, legislative staff, and the Attorney General's office over how these definitions should be interpreted as currently drafted. That disagreement is a direct consequence of trying to force a single definition onto a wide variety of business models, and no amount of redrafting will fully resolve it. The more durable solution is to remove discounts and loyalty programs from the bill's scope entirely, so that businesses do not need to fit their programs into a statutory box — and disclosure requirements — which in many cases would not be feasible, in order to continue offering New Yorkers savings they already rely on.

The Distinction Between 'Dynamic Pricing' and 'Surveillance Pricing' Should Be Recognized

We also urge that, in reviewing this bill, the distinction between "dynamic pricing" and "surveillance pricing" be recognized. Dynamic pricing refers to a business's use of a consumer's personal data that is necessary to actually provide the good or service being requested — for example, a rideshare service's use of a consumer's location data to identify their pickup point, calculate a route, and provide the ride they are asking for. Surveillance pricing, by contrast, is the use of a consumer's personal data that has nothing to do with, and no bearing on, the business's ability to provide that good or service, in order to charge that consumer a higher price than they would otherwise pay. Although dynamic pricing does involve the use of personal data, it is a fundamentally different practice from surveillance pricing: it is a necessary and legitimate operational function, not the harmful conduct this bill is intended to stop. We are asking that the final language of the bill, whatever form it takes, does not have the effect of impacting or restricting the legitimate, necessary use of dynamic pricing.

The Need for a Single, Statewide Standard

Finally, we want to raise an issue that we believe is critical to get right at the outset: this policy should be governed by one unified statewide law, not a patchwork of differing municipal rules layered on top of it. If, for example, New York City were to enact a stricter or differently defined version of this law than the state standard, the practical result would be that a consumer in the Bronx could be denied a discount that a consumer just outside the city limits receives for the identical purchase. That outcome serves no one.

A single statewide standard benefits businesses through consistent compliance obligations, but it benefits consumers just as much, if not more: it reduces confusion about why prices or discounts differ from one New York community to the next. It also has an important privacy dimension that we believe deserves particular attention. If municipalities were permitted to impose their own, differing surveillance pricing rules, businesses would need to determine which set of rules applies to any given transaction — which would require collecting a consumer's precise location data that would not otherwise need to be collected. A law meant to protect consumer data privacy should not have the effect of requiring businesses to collect more location data than they do today. We urge that the final legislation include clear and express preemption of local law on this subject.

Conclusion

We appreciate your consideration of these concerns and welcome the opportunity to discuss the enclosed redlines with your office in greater detail. We believe the changes we propose would result in a law that fully accomplishes the Legislature's goal of ending surveillance pricing to charge consumers higher prices, while avoiding the unintended consequences that led a fellow Democratic governor to veto similar legislation, and while giving New York businesses a clear, workable, and statewide standard to follow.

Thank you for your attention to this important issue.

Respectfully,

Brooklyn Chamber of Commerce
Business Council of New York State
Business Council of Westchester
Capital Region Chamber
Center State CEO
Chamber of Progress
Computer & Communications Industry Association
Connected Commerce Council
CTIA
Financial Technology Association
Food Industry Alliance
Hotel Association of New York City
Motion Picture Association
National Federation of Independent Business (NFIB)
National Grocers Association
New York Bankers Association
New York Credit Union Association
New York State Hospitality & Tourism Association

New York State Restaurant Association
Orange County Chamber
Partnership for New York City
Queens Chamber of Commerce
Rockland Business Association
Staten Island Chamber of Commerce
Tech Net
Tech:NYC
Travel Technology Association