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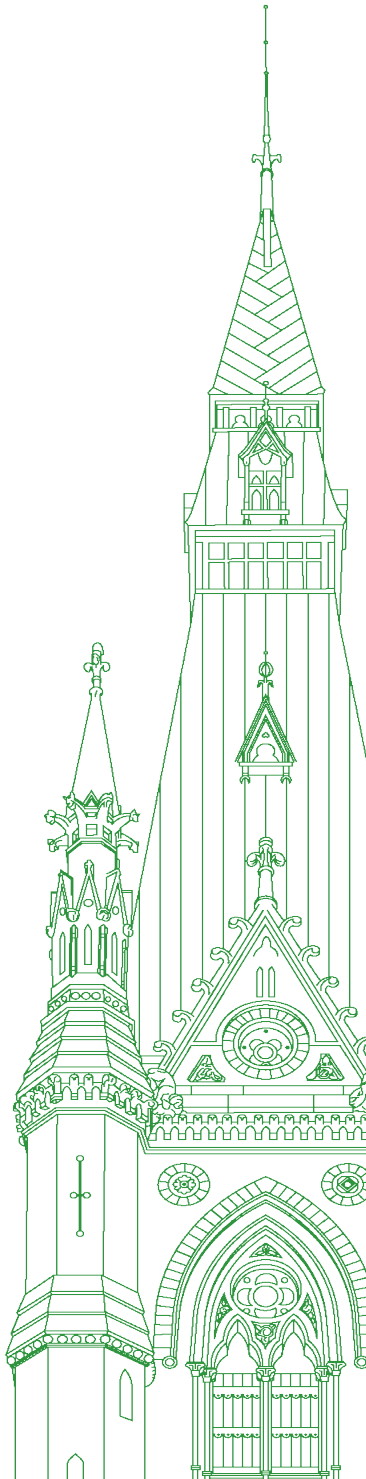

Chair: John Brassard

Standing Committee on Access to Information, Privacy and Ethics

Monday, November 16, 2026

● (1100)

[*English*]

The Chair (John Brassard (Barrie South—Innisfil, CPC)): Good morning, everyone. I'm going to call the meeting to order.

Welcome to meeting number 58 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[*Translation*]

Pursuant to Standing Order 108(3)(h) and the motion adopted by the committee on Wednesday, December 10, 2025, the committee is resuming its study of the use of artificial intelligence in algorithmic pricing.

[*English*]

I'd like to welcome our witnesses for the first hour.

We have, as an individual, Robert Clark, who is a professor in the Department of Economics at the University of Toronto.

We have Sarah-Louise Ruder, research associate and adjunct professor at the Food and Agriculture Institute of the University of the Fraser Valley.

Professor Clark and Dr. Ruder, I want to welcome you to committee this morning.

Professor Clark, I'm going to start with you. You have five minutes to address the committee. Go ahead, sir.

Robert Clark (Professor, Department of Economics, University of Toronto, As an Individual): Thank you very much, Mr. Chair and members of the committee. It's great to be here.

Pricing algorithms are software programs that determine prices. More sophisticated AI-driven pricing algorithms leverage large amounts of data and use machine learning to set prices. Their adoption has raised concerns in policy circles that they could lead to higher prices or facilitate collusion, which will be my focus today.

To understand why algorithmic collusion raises concerns, it's useful to compare it with traditional collusion, which involves firms communicating with the intent to reach an agreement to coordinate their actions. Organizing and implementing such an agreement can be difficult, requiring firms to make sustained efforts to achieve coordination all while avoiding detection. Establishing liability in traditional collusion cases typically requires evidence of explicit communication or agreement. By contrast, algorithmic coordination could arise with minimal human effort in the absence of explicit communication and with or without human intent.

Before explaining how algorithms might facilitate collusion, let me just mention that they may also improve firms' ability to predict demand and generate pro-competitive and efficiency-enhancing effects. They may help markets clear more quickly by reducing information and pricing frictions. They may lower barriers to entry for less experienced firms, enabling them to compete more effectively. They can also facilitate personalized pricing by tailoring prices to consumers based on their purchase histories and demographic characteristics, as well as dynamic pricing that adjusts to changing demand conditions.

This may benefit consumers by allowing firms to better match prices to individual willingness to pay and changing market conditions, potentially expanding access and improving the allocation of goods and services. However, it may also allow firms to extract more consumer surplus or charge higher prices to consumers with fewer alternatives. These are issues distinct from algorithmic collusion. Let me go back to that and ask how algorithmic pricing might restrict competition. It can do so in three main ways.

The first is that firms might deliberately agree to use an algorithm to help operate their collusive arrangement. This is traditional collusion, but with the aid of an algorithm. Why would humans use an algorithm to coordinate their collusive arrangement? That's because algorithms may be more efficient at colluding than are humans. They may reduce the need for ongoing communication. They may be better at achieving coordination by improving firms' ability to collect and analyze information, and they may be better at sustaining collusion by facilitating the monitoring and punishment of deviations that are necessary for collusive arrangements through faster and more systematic responses. In this case, this form of collusion—this concern—involves explicit agreement to fix prices, and therefore is a clear instance of illegal collusion.

The second concern is that competing firms might share sales and price information with a third party firm operating a pricing algorithm, and they could make pricing recommendations to them. The worry is that the algorithm could combine information from rival firms and that it might do so in a way that leads to collusion; that is, it might help firms set the joint profit-maximizing price. Firms do not communicate directly in this scenario, and this poses a challenge from a legal perspective.

The third concern is that separate algorithms hired by competing firms might autonomously learn to collude without communicating and without being instructed to collude. Algorithmic agents engage in what's called reinforcement learning, whereby pricing strategies that have done well in the past are played again with higher probability in the future. The concern is that algorithms might learn that the best strategies are collusive strategies. They may learn that it's optimal to adopt a reward-and-punishment strategy of the sort that underpins most collusive arrangements.

The theoretical research performed by economists to study the impact of algorithms has been largely computational and based on theoretical models, and especially for the last case, the results on the impact of algorithmic collusion are ambiguous. Some research has shown that algorithms can facilitate collusion. Others have said the opposite: that algorithmic collusion would still require communication for coordination, that where it's been shown to be effective is just on simple environments and that in fact algorithms could make deviation from collusive arrangements more profitable.

Other economists have said that the outcome could depend on various parameter values or the sophistication of the algorithm, and so more recently we've turned to empirical analysis. The big challenge is that firms' software adoption decisions are rarely observed. Two recent papers have tried to overcome this challenge.

● (1105)

The first was my work in studying algorithmic pricing in Germany's retail gasoline market, where adoption was reportedly widespread in 2017. Although there's very good high-frequency pricing data available for Germany, adoption decisions are unobserved. We developed a data-driven approach that tried to identify adopters by looking for structural breaks in station-level pricing behaviours that are associated with algorithm pricing: speed and responsiveness to price changes. We found that adoption significantly increased margins, particularly local markets with full adoption, suggesting that the effects extended beyond improved demand prediction and may have had to do with the competitive environment.

The Chair: If you can wrap it up, Professor Clark, we're over time. I want to give Dr. Ruder an opportunity, so perhaps you could take another 15 to 20 seconds to wrap it up.

Robert Clark: Yes. That's perfect.

I'll say to conclude that the rise of algorithmic pricing may require us to rethink how competition policy treats collusion. We might need to move beyond focusing on communication to start thinking about what the pricing rules look like. We might want to think especially about forbidding joint profit maximizing being embedded into the code.

I'll stop there. Thank you.

The Chair: Thank you, Professor Clark.

I'm sure members will have questions on what you might have missed, and you'll be able to answer.

Dr. Ruder, you have five minutes to address the committee. Go ahead, please.

Sarah-Louise Ruder (Research Associate and Adjunct Professor, Food and Agriculture Institute, University of the Fraser Valley, As an Individual): Thank you, Mr. Chair and members of the standing committee.

My name is Sarah-Louise Ruder. I am a research associate and adjunct professor based in British Columbia. My research focuses primarily on data governance, digitalization and AI in food systems.

While Canadians may be more familiar with algorithmic pricing in travel, hospitality and ride-sharing arrangements, governments recognize that grocery retail is an increasingly important arena. For example, the first legislation on algorithmic pricing in both Canada and the U.S. focused on grocery retail: Maryland's Protection From Predatory Pricing Act, and Manitoba's Business Practices Amendment Act.

Among the many forms of algorithmic pricing, the practice that raises the most significant privacy and ethical concerns is surveillance pricing: the use of personal and inferred data to estimate an individual's willingness to pay and to tailor prices accordingly. This practice is also called personalized algorithmic pricing. There is evidence in the United States of surveillance pricing for online and physical grocery stores. However, policy-makers should not focus exclusively on the hypothetical future of a perfectly individualized pricing system or first-degree price discrimination. Even less sophisticated forms of pricing that infer willingness to pay at the household, neighbourhood or regional level can create important privacy, fairness, competition and food security concerns.

To help understand the conditions under which surveillance pricing could emerge in Canada, I'm conducting ongoing research with Dr. Kelly Bronson at the University of Ottawa and our research assistant, Chloe Salter. We collected and reviewed data-related policies and agreements associated with Canada's five largest grocery loyalty programs: Moi, More, PC Optimum, Scene and Walmart Rewards. These programs generate extensive datasets that could become highly valuable for algorithmic pricing systems.

Across these programs, we found language permitting various forms of personalization based on consumer shopping behaviour and inferred characteristics. While surveillance pricing is not specifically mentioned, we found broad and open-ended provisions governing future uses of personal data that could potentially accommodate these practices. Based on this and other research, I offer the following recommendations.

First, any future Canadian legislation on algorithmic pricing should avoid exemptions for loyalty program data. Loyalty programs generate extensive datasets on longitudinal customer behaviour and purchasing patterns. Excluding these data sources, as Maryland's legislation does, risks creating significant loopholes that could undermine protections against surveillance pricing.

Second, regulations should focus on the effect of algorithmic pricing rather than the sophistication of the underlying AI systems. Surveillance pricing does not require perfectly individualized predictions to create harms. Systems that infer willingness to pay beyond the individual level can also have significant implications for privacy, equity and food security.

Third, policy-makers should recognize that privacy and ethical concerns associated with algorithmic pricing go beyond potential increases in prices. There are concerns related to privacy, fairness, autonomy, discrimination and public trust, even when consumers receive the same or lower prices or see changes over time.

As a food systems researcher, I am also concerned about algorithmic pricing systems that promote specific foods, with either increases or decreases in price based on inferred consumer characteristics, such as a grocery app promoting cheap, ultra-processed foods to low-income households, which is currently possible.

Under current legal frameworks, Canadians have limited visibility into how personal and inferred data may be used in price setting and limited ability to make meaningful choices and control these processes. I believe that surveillance pricing is an unfair business practice and is not an appropriate use of personal information per the additions to Bill C-36.

Canada has an opportunity to act to better protect consumers before personalized pricing is widespread.

Thank you. I look forward to your questions.

● (1110)

The Chair: Thank you, Dr. Ruder.

First of all, I want to apologize. I mispronounced your last name. I'm glad we cleared that up.

Sarah-Louise Ruder: That's okay. It's very common.

The Chair: We'll start with our questioning.

Members around the table, I would ask you to please direct your questions specifically to the witness you'd like to answer the question. We have two on video conference,

Witnesses, please wait until the interpretation is over before you answer the question. It's just easier to do that.

[*Translation*]

We will start with Mr. Hardy, who is participating by video conference.

You have the floor for six minutes, Mr. Hardy.

Gabriel Hardy (Montmorency—Charlevoix, CPC): Thank you, Mr. Chair.

I'd like to thank everyone for joining us.

I think this is an extremely important topic and it is new to most people.

Mr. Clark, you said earlier that algorithmic pricing dates back to 2017, so this is nothing new for you. You've read studies that have shown this for a long time and you've seen the effects.

I wonder what impact that could have on someone in a smaller market, such as in Montmorency—Charlevoix, where there are two or three gas stations. You said that, according to your studies, the price could increase by up to 40%, particularly for gas. Do you think that could happen here, in Canada, or at least that we should make sure it doesn't happen? Given the rising cost of living, I think citizens have a right to know if they're paying more because of some artificial intelligence in the background.

Can you tell us a bit more about what your studies have shown?

Robert Clark: Yes.

[*English*]

I think algorithmic pricing is a longer-standing problem than we think. In fact, if we remove the term “AI” from the equation and just talk about pricing algorithms, they go back many, many years. Airlines have been using algorithms to help set prices for decades. Hotels have for many, many years. In retail gasoline, even before it was introduced in Germany in 2017, other European markets were witnessing adoption.

So far, there's no evidence that algorithmic pricing has been introduced in the retail gasoline market in Quebec. Various authorities are monitoring retail gasoline markets pretty effectively and keeping an eye on pricing there. There have been allegations of price-fixing, but not necessarily of the algorithmic form or facilitated by algorithms.

I'd be happy to say more about the German context. According to trade publications, algorithms were introduced in the German retail gasoline market in and around 2017. Our data-driven approach for determining which stations likely adopted it finds that about 30% of stations across Germany did adopt it around then. If we study the impact of that adoption on margins, we find a pretty significant increase. That alone doesn't tell you that it was a collusion story rather than just a better demand prediction story.

To try to ease that out, we looked at markets where there was full adoption versus partial adoption. It seems that in markets where there was full adoption, the effects were stronger. This suggests that it had something to do with the level of competition in the market.

● (1115)

[*Translation*]

Gabriel Hardy: I want everyone to understand this, since it is quite new. I tried to talk about it with people around me over the past week and explain what algorithmic pricing is, and they were dumbfounded to learn we had reached this point.

At the last committee meeting, I asked a question that I thought made sense. We've seen the opposite phenomenon before where websites analyze everything on the Internet regarding hotel room prices, for example, to help people get the lowest price. However, I've been told that what's coming will have the opposite effect: The average price will drive prices up. We are talking about gasoline, but that is the case for just about everything.

In your opening remarks, you talked about collusion from a legal standpoint. In this case, it's not the companies talking to each other; it's the algorithms in the background that are driving up prices and making everything more expensive. Companies are making a profit, but Canadians are ultimately the ones paying the price.

Isn't it a problem that our current legislation prevents us from addressing the issue of collusion, since it's not really voluntary?

Robert Clark: Yes, it's a problem.

[*English*]

Right now, our competition law directly targets communication. That's something we may need to revisit. We may need to recognize that collusion could take place in different ways now facilitated by these algorithms. Focusing exclusively on communication as our trigger for legal pursuit might not be the way to go.

What are the alternatives? Do we dive in and directly study the pricing rules in these algorithms? That could be challenging, though. In a lot of cases, they're just going to be about learning. Learn from past strategies that did well. That's what the code will roughly say. There probably shouldn't be anything illegal about that.

Where we can try to limit is.... Especially in the case of this third party algorithm that's facilitating collusion amongst downstream firms.... In cases where the gas stations use a single software, if they're feeding their information to that software and it's combining that information and sending back pricing recommendations that look like joint profit-maximizing prices, I think that's something that competition policy needs to think about addressing, needs to restrict. If the software provider has a code that says they're going to find the joint profit-maximizing price, that's what needs to be limited.

The Chair: Thank you, Professor Clark and Mr. Hardy.

Because we have two witnesses online, I'm going to give a one-minute warning in terms of time so that we give everybody a fair chance to ask questions.

Ms. Church, you have six minutes.

Leslie Church (Toronto—St. Paul's, Lib.): Thank you, Mr. Chair.

Thank you, witnesses, for opening up the discussion on this today. You've both touched on many of the concerns that we've been exploring around personalized price discrimination and the impact that might have on raising prices for consumers, the violations of privacy, the lack of transparency and the anti-competitive coordination that can happen in microseconds.

We have heard that this is new to Canada. Part of what we're exploring is how concerned we need to be about this right now. What are consumers experiencing today? We're hearing that it's not fully here yet, but I think that what is real is the fact that the building blocks of this are certainly in place.

Dr. Ruder, I read your Policy Options article from this past July, so I will start with you.

Can you talk a bit about the “willingness to pay” concept that you referenced? How might retailers want to take advantage of this?

● (1120)

Sarah-Louise Ruder: Willingness to pay is already addressed in the Competition Bureau's discussion paper on algorithmic pricing and is in line with my interpretation of this economic concept. Essentially, based on inferred or known characteristics about a person, the willingness to pay for a product may be higher or lower. That could be perceived based on something that is essential and that you buy every week in your groceries. Maybe the willingness to pay could be higher for a product for that household than for someone who doesn't buy it as frequently.

What concerns me most are the inferred characteristics that could have a disproportionate effect on potentially lower-income households, or rules-based or learning-based pricing changes based on socio-economic and other factors such as race. In that respect, that's the willingness to pay. It has to do with if they nudge the price up even a few cents in an algorithm, does that change whether someone buys the product or not?

Those kinds of experiments are widespread in platforms like Instacart. Also, online and physical retailers in the U.S.— Walmart and Amazon Fresh—have been recorded.

As one example, in a publication in Quantitative Marketing and Economics, from 2024, by Aparicio et al, they see this experimentation over hundreds of thousands of price observations with online and physical stores, even based on zip codes or very specific location data. That would be my interpretation of the first part of your question.

In terms of the building blocks, I certainly see that it is there. We don't have the same kind of documented evidence in Canada to date. I don't think that means it's not happening. We could have similar practices. Many of these companies exist in the U.S. and in Canada. Walmart is developing many AI systems and has their own patents on AI systems for pricing as well as other agentic AI in online shopping environments.

The other building block that might be relevant to us here is electronic shelf labelling and the integration with algorithms there, which I know you've discussed in past meetings with witnesses.

Leslie Church: I was going to ask you if you're seeing that in Canada and what the implications are in terms of how it would allow this practice to be used by retailers, if they have that technology in place.

Sarah-Louise Ruder: We are seeing electronic shelf labels expand throughout Canada and not only with American retailers like Walmart. We're seeing Sobeys, Metro and Loblaws rolling out these electronic shelf labels. Those Canadian grocers have all said that they will not use electronic shelf labels for surveillance or personalized pricing.

To date, that would be challenging. It would require other sources of data collection or even video feeds throughout the aisles, which would raise some alarm. That has been discussed, for example, in Quebec, with Metro proposing to use video to identify specific consumers.

Leslie Church: Thank you.

Sarah-Louise Ruder: Electronic shelf labels would make it possible to change this—not personally but through other algorithms. If it's the morning, coffee could be more expensive. If it's really hot, ice and popsicles could be more expensive. It's things like that.

Leslie Church: Thank you very much.

I'll go over to you, Dr. Clark.

You talked about distinguishing dynamic pricing and algorithmic collusion. One of the challenges we're seeing is where to draw a line in the law. Companies have used data analytics in their pricing for quite some time.

How do we precisely pinpoint where algorithmic collusion is coming into play? How do we identify that, and where in the law do we need to make sure we're stopping that?

The Chair: Answer in 35 seconds, please.

Robert Clark: That's a good question.

I think it's hard. I mentioned three kinds of concerns: humans colluding using an algorithm; humans not necessarily intending initially to collude, but feeding their data to a third party provider; and this world where algorithms could autonomously learn how to collude. I think we're a little away from the third possibility. Regarding the other two, there are ongoing cases and completed cases that have targeted the first two forms of collusion. We've had instances where humans have decided to use an algorithm to coordinate their collusive arrangement. That's just traditional collusion.

There is some agreement, initially—

● (1125)

The Chair: Professor Clark, if you don't mind, answer quickly.

Robert Clark: I'll just finish one last thought.

The one that worries me, and it's going to be a little harder to detect, is where we feed our information to a third party to help us with our pricing, and it spits back joint profit-maximizing prices.

The Chair: Thank you, Ms. Church.

[*Translation*]

Mr. Thériault, you have the floor for six minutes.

Luc Thériault (Montcalm, BQ): Thank you.

I have a question for both witnesses.

My question is very simple, but I think it precedes the discussions we could have. I'd like to hear your definition of a fair price and an impartial price?

You may begin, Mr. Clark.

[*English*]

Robert Clark: Sure, I can start.

I don't think it's easy to define a fair price. We've talked a little bit about willingness to pay. I think we should talk about willingness and ability to pay. Economists talk about responsiveness of demand to changes in price. You might have heard the term “price elasticity”. We think consumers have different responsiveness to prices or to price changes. I think firms should be taking that into account when they set their prices.

In this country, we have a productivity problem. We would like to encourage our companies to grow. To do so, they're going to have to set efficient prices that are going to help them earn some profits. What we'd like to limit is firms exploiting consumers by setting prices that take advantage of consumers with very limited options or with very elevated costs to switch to alternative producers.

I think this is as much, if not more, a competition problem as it is an algorithm problem. Canada has a competition problem. In many markets, and well before the arrival of algorithms, firms have been able to take advantage of their lack of competitors to charge higher prices and to have market power, especially in cases where consumers have limited ability to switch.

We've seen personalized prices in many markets for many years. If you own a home, you would have negotiated a rate on your mortgage, and the rate you pay for your mortgage is probably different from the rate your neighbours are paying for their mortgage. That's a personalized price that was arrived at through a search and negotiation process with your bank.

There's been a lot of talk about bank competition lately. That's a market with limited competition, limited transparency, high search costs and high switching costs. As a result, some consumers will get better discounts, and other consumers will get worse discounts. What's a fair rate? That's hard to establish. That's going to be based on elasticities while taking advantage of these high switch and search costs.

[*Translation*]

Luc Thériault: A fair price is one thing; an impartial price is another.

I'll ask you the same question, Ms. Ruder.

Sarah-Louise Ruder: Thank you very much.

My research focuses on food sector systems, so I found a lot of the same things as Mr. Clark.

When it comes to the price of food and essential products, I think it's very important to look at the issue of price changes. Food insecurity is already a major problem in Canada. Food inflation is a problem. There are a number of factors driving up food prices.

It is indeed a problem. Prices need to be fair and impartial. If dynamic pricing software can change the prices of essential goods, it's unfair to consumers. That's certainly the case in grocery stores. It is one of the sectors where competition and the ability of consumers to change places to buy groceries are a problem. Even if we have options like Loblaws or No Frills, it's all the same system. It's also the same system for the loyalty program: it's PC Optimum for those retailers, and even for Shoppers Drug Mart or Pharmaprix.

I think it's those things that change what is a fair or an impartial price.

● (1130)

Luc Thériault: With monitored pricing, we are very far from the supply and demand system. It no longer has any meaning.

Sarah-Louise Ruder: That's correct.

When you shop for groceries using an app on your phone, even if it says you'll get a reward or that there's a special offer on a product, you can't know whether it's really the same price or the same offer as what someone else is getting.

I'll give you another example not related to groceries. Last night, I was going through my notes out of curiosity. I had already noticed that if my husband and I, who live in the same place, indicated the same destination in the Uber app, we would get different prices. Yesterday, it was a difference of $10 for the same time and the same conditions. It's anecdotal, not part of my research, but it is part of my life as a consumer.

That's another issue. You can't really know what the price of a certain service or product is.

Luc Thériault: Thank you.

The Chair: Thank you, Mr. Thériault and Ms. Ruder.

We'll go back to Mr. Hardy to start the second round.

You have the floor for five minutes, Mr. Hardy.

Gabriel Hardy: Thank you very much.

I didn't have a chance to speak to Ms. Ruder earlier, so I will do that now.

We're talking about food. Obviously, our basic needs as humans are to have a roof over our head and food on our table. Now these needs may under attack by algorithms that take into account people's ability to pay and promote higher prices. That's an interesting thing to analyze. First, it allows us to inform people of this potential behind-the-scenes phenomenon. Second, I think it's a very important discussion for us all have to determine whether Canada should legislate on this.

Ms. Ruder, you talked about access to information. You said the major chains have access to information and that, ultimately, it was to the disadvantage of the consumer.

Do you think we should at least take the time to properly analyze what's going on, given the importance of food and shelter? Should we prevent companies from having access to this type of system until we analyze the phenomenon and better understand all aspects of it? On the one hand, it drives prices up; on the other hand, it could drive them down.

Sarah-Louise Ruder: Certainly, yes. I would like to see a lot more independent research being done to see how these systems affect prices. The government could put a hold on this practice. We can do more research to find out what the situation is, one way or another. The government can also determine that certain applications are not fair. For example, it could decide that, in the case of grocery stores and essentials—and it could even determine that pharmaceuticals are essentials—it is not an appropriate use of personal data in Canada.

Let's take an example where the systems are highly integrated. I'll give an example again from Loblaws. The PC Optimum program applies at Shoppers Drug Mart, or Pharmaprix, but also in grocery stores. Now, let's say a company uses a pricing software and sees that someone has done an online search to find out which products the company is selling to treat fever symptoms in a child and what the prices are. When that person goes to the grocery store, or even to a Shoppers Drug Mart or Pharmaprix, prices might be higher if the business knows it's a product the person wants to buy. Knowing the person is willing to pay a certain price, since they did a search online, can change how the price is set.

Gabriel Hardy: You raise an interesting point. In business, in particular, the system of supply and demand will always cause prices to fluctuate. However, in this particular case, it's based on very private information. For example, if my child has a food allergy and cannot eat a wide range of products, I might have to pay more, because I'm unable to go and buy anything else. That means I'm somewhat at the mercy of certain factors. In the situation you describe—if, for example, I have a fever or an emergency—I might pay more for a product because I really need it right now.

Normally, a company sets the price of its product based on what it costs to produce it. After that, there's a whole chain and ultimately, the price is *x* or *y*. In this case, however, it might vary depending on the person's circumstances when they're faced with the product. That's where access to information becomes even more important. I believe you said it's not mentioned in Bill C-36, which is government-sponsored legislation.

Can you tell us a little more about your analysis regarding this?

● (1135)

Sarah-Louise Ruder: Yes. This is an analysis I'm doing with Kelly Bronson at the University of Ottawa and our assistant, Chloe Salter. There was a question earlier about the basic components in place. What we want to know is whether or not there is something in the current legislation that could allow this practice or whether there are a number of ways—

The Chair: You have one minute left.

Sarah-Louise Ruder: All right.

[*English*]

I can speak faster in English.

In looking through the data policies for loyalty programs, we were looking at whether they mention algorithms. Some of them do. We also looked at whether they mention pricing increasing or decreasing for personalization. What we see more of is an open-ended clause that could allow for that practice, and it is not mentioned as something that they won't do.

[*Translation*]

Gabriel Hardy: We may only have 10 seconds left, so please answer my question with a simple yes or no.

If a consumer were asked whether they'd agree to a company using their purchasing habits to increase the price specifically for them, do you think they'd say yes or no?

Sarah-Louise Ruder: I think they would say no.

Gabriel Hardy: Thank you.

The Chair: Thank you, Mr. Hardy.

[*English*]

Ms. Tesser Derksen, I have you next.

You have five minutes. Please go ahead.

Kristina Tesser Derksen (Milton East—Halton Hills South, Lib.): Thank you, Mr. Chair.

Thanks so much to our witnesses for continuing this really important and enlightening conversation.

I'll direct my questions to Dr. Ruder.

Dr. Ruder, I read your article about surveillance pricing at the checkout. I found it really interesting. In that article, you reference the government's national artificial intelligence strategy. You also mention Bill C-36, which is informed by that strategy. You talk about how it expands the definition of "personal information" to include "information that is inferred about the individual".

Could you explain for us how you see the national AI strategy and Bill C-36 supporting protections for consumers? If you want to frame it up a little bit, maybe you could start by talking about privacy laws in that context.

Sarah-Louise Ruder: Absolutely. Thank you.

I think there are a few changes in Bill C-36 that offer some hope for better protection of consumers. I know that earlier witnesses have focused on that inferred characteristic and then also the appropriate uses. We can choose what is an appropriate use of personal information, such as something we have consented to with explicit consent in the form of using a loyalty program, for example. The consent is through checking a "yes" box, but not necessarily having read all those things.

Both of those changes, which would apply to PIPEDA in this current version of the privacy law, do offer some space for better protections for consumers, but in the current articulation, I don't think it's enough. It still gives interpretation of different businesses. Then it would need to come to filing a complaint to what is currently the OPC but will become something else. I think that kind of reactive response will still give room for customers to be exploited unfairly.

The mention of algorithmic pricing was very small, but I was excited to see it in the AI strategy to acknowledge how that can impact prices. In the inverse, the food security strategy also made a brief mention of this practice and how it should be regulated with special care and attention for food and other essential goods.

Kristina Tesser Derksen: Thank you for that. What I took away from your article was that you identify the privacy laws as a lever of government. That's one of the things available for us to use. It's at our disposal.

● (1140)

Sarah-Louise Ruder: Yes.

Kristina Tesser Derksen: One of the other levers you identify is competition law, particularly as it exists in the hands of the provinces. Recently, and you mentioned this in your article, Premier Ford in Ontario was asked whether or not the province would consider taking steps around restricting surveillance pricing the way they have in Manitoba. His response was to the effect that he didn't want to muck around in competition laws, because that could stifle competition and provide fewer options for consumers and inevitably less affordability.

How would you respond to Premier Ford's position and his concerns?

Sarah-Louise Ruder: That would be a fun opportunity.

I agree with the analysis of Professor Clark in terms of the algorithms of competitive behaviour. We can find that in a concentrated market, these things could be anti-competitive and actually reduce choice for individuals. I would have the opposite conclusion to Premier Ford in interpreting these practices.

You mentioned the article. Yes, I think we have privacy laws—one of our levers is the competition law—and then also unfair business practices. Consumer protection is the avenue that the Province of Manitoba has taken. I think that's promising. Quite likely what will need to happen is coordination across multiple levels of government and multiple different kinds of tools that we have available to protect consumers and then decide what kind of economy we want in Canada.

At the federal level, I think privacy law is a really important one. We can connect across the country. Everyone should be protected equally from these practices, in my opinion, especially for food and essential goods.

The Chair: You have just under a minute.

Kristina Tesser Derksen: Thank you.

Just to wrap up, I'll touch on something else Professor Clark mentioned. Surveillance pricing, or what some people call surveillance capitalism, has been around for quite some time, especially in air travel and that sort of thing. You mentioned in your article as well that there only recently seems to have been genuine interest by the public and by politicians to address this. What do you think has changed?

Sarah-Louise Ruder: I think when it enters food, it kind of changes the game for people, especially when the cost of living is so high and food insecurity is high across the country. It's extremely high in remote places and for specific populations, such as racialized families. I think it coming to food, something that's essential where we don't have choice, has changed the perception.

I also think it's a good political win to come in on affordability of food. It's an opportunity to respond to the cost of living. It's something that affects voters across the country. I think there is a policy window in terms of it coming to food, something that we can't choose to go without. If prices for flights are too expensive, we can choose to not take that vacation, for example, but groceries—

The Chair: That's wonderful.

Thank you both.

[*Translation*]

Mr. Thériault, you have the floor for two and a half minutes.

Luc Thériault: First of all, I have a brief question for you, Mr. Clark. In your opening remarks, you referred to traditional collusion and algorithmic collusion. How might we prevent algorithmic collusion, which occurs without human intervention?

[*English*]

Robert Clark: We're going to need to do a couple of things.

First, we're going to need to find out which firms are using which algorithms, so we need, basically, a census of algorithms. This doesn't exist right now, so we're not even sure which firms are using algorithms and, if they're using them, which algorithms they've adopted.

Once we know that, we could do various things. We could do pre-emptive approaches that would involve studying the algorithms before they're implemented to see whether they're designed in such a way that they might facilitate collusion. We could also do an ex-post analysis where we evaluate the outcomes in the market, and if it looks like there have been increased margins and increased prices, then we might need to come in.

The number one thing is to see whether the code is arranging for something that looks like joint profit maximizing. If competition authorities are going to do one thing, it would be to eliminate those lines from the code. That would prevent the combining of data from multiple firms and the use of that information to set the joint profit maximizing price.

[*Translation*]

Luc Thériault: Since you made the distinction, I imagine it exists. Is that the case—or is the possibility of its existence merely hypothetical?

When you say the algorithms should be checked, to whom are you referring? Who would be in the best position to do that?

[*English*]

Robert Clark: Competition authorities would probably be the best place to do this.

We're not talking about something easy here. We're talking about requiring that any firm that adopts some sort of algorithm somehow discloses this. That's a big ask of companies, but it could be reasonable. “Is a human price setting or are you algorithmically price setting?” If we had that information, we could move to the next step, which would be asking, “What does your code look like?”

We could wait. We could look ex post. Did prices go up in this market on the whole? If yes, then we'll do some analysis of the code to see what was written into it.

● (1145)

[*Translation*]

The Chair: Thank you, Mr. Thériault.

[*English*]

Thank you, Professor Clark.

We'll have time for five minutes, five minutes, two and a half minutes and two and a half minutes for the Conservatives and the Liberals. That will get us to the top of the hour.

Mr. Jackson, welcome to committee.

Grant Jackson (Brandon—Souris, CPC): Thank you, Mr. Chair. It's a pleasure to be here. It's a very interesting study that you folks have going on today.

Professor Clark, I represent a very rural area in the southwest corner of Manitoba. In many cases, communities in my constituency don't have a grocery store, or if they do, there's one and it's the only game in town, so people are travelling many dozens, if not hundreds of kilometres to find a Walmart.

I'm curious about this instance with the co-op grocery store. Do you feel your local co-op number, which you use at the homebuilding centre, the gas station and the grocery store, would be used for surveillance pricing, similar to what you and your colleague have discussed about a loyalty rewards number at a Walmart or with PC Optimum?

Robert Clark: Anything that tracks your purchases is going to help firms build your personal demand curve, and the more information firms have about your demand curve, the more they can tailor prices to you.

One thing is really important. You're calling it surveillance pricing. Economists like to call it personalized pricing. Most of the discussion about personalized pricing seems to suggest that the only way prices can go is up, and that's just not the case.

If we compare personalized pricing to just one uniform price that everyone would have to pay, as we move from uniform to personalized pricing, some consumers should be better off. What's going on under uniform pricing is there's one price. Some consumers are driving a lot of extra surplus because they're paying less than they were willing to pay, and other consumers are being cut out of the market completely because that one single price was too high for them. If we move to a world of personalized pricing, in theory, the firm could set some lower prices to attract to the market some of those consumers who hadn't been buying beforehand.

We need to remember that, but we need to be wary of these higher prices.

Grant Jackson: Sure, but in the rural context, when there's only one game in town, they don't have to do much for attraction, because the people who can't afford to drive to Brandon, which is 130 kilometres away, have to go to that one grocery store anyway.

In a monopoly market like that, what specific policy recommendations would you make to this committee to deal with that issue?

Robert Clark: As I said at the beginning, I think we have a real competition problem in this country. Some of it is because we're a dispersed country with lots of little, local markets. In those markets, there's no doubt that there's a lack of competition in a variety of markets.

Economists are very reluctant to recommend price controls, so I don't want to step in and say there should be price controls in those kinds of markets. However, I think we need to be wary of competition and the levels of competition in local markets.

Would it be great if we could encourage that second grocery store to come into the market? That could do the trick. That one extra firm present in the market might be enough to generate the competition that would be required to put downward pressure on prices.

Grant Jackson: What do you think the government could do to make that a reality?

Robert Clark: I mentioned the banking sector. We have a very concentrated banking market. In the recent budget, the government has taken steps to make entry into that market a bit easier.

The grocery sector is hard, I think. Typically, except in very small, local markets, we'll see a couple of options for consumers.

The government could take steps across the board to try to facilitate entry into markets and make it easier for small businesses to operate.

● (1150)

The Chair: You have 45 seconds.

Grant Jackson: Thank you.

I wonder if Dr. Ruder has anything to add, with the 40 seconds I have left.

Sarah-Louise Ruder: The food security strategy has suggestions for increasing competition and choice across the food system. Investing in processing and distribution will be one way to help that, as well as supporting new entrants as grocers.

I also mentioned prices going up and down. That is true, and we need to explore what the price effects are.

Personalized advertising is another thing that the government could choose to investigate and regulate. Even when prices go down, there is a modification of consumer behaviour, and it could reinforce social determinants of health when it comes to food.

I would say those two things in my short time.

The Chair: Thank you.

Thank you, Mr. Jackson.

Mr. Al Soud, you have five minutes.

Fares Al Soud (Mississauga Centre, Lib.): Thank you, Chair.

Thank you, both, for being with us today.

Dr. Ruder, a concern that came to mind when I was reading your work is the idea that certain consumers have fewer substitutes available to them than others. I'm Muslim. I'm Arab. There are certain things about my shopping habits that can be inferred. Pork is not on my grocery list. I'm not a very effective person to advertise alcohol to. Every cultural meal will lean on some combination of rice, bread and lentils.

This is also a reality for many other communities, such as Hindu Canadians, Jewish Canadians, people with celiac disease, and the list goes on. There are differing circumstances.

Given your research on surveillance pricing and consumer profiling, do you believe AI-driven pricing systems might create a risk that these consumers could end up paying more precisely because their purchasing patterns reveal that they have fewer alternatives?

Sarah-Louise Ruder: Absolutely, I do. This is something that's been observed in the U.S. already. The Consumer Reports Instacart study has been mentioned by other esteemed witnesses. Consumer Reports has done other investigations on, specifically, inferred characteristics about individuals and households. Those include income, as well as cultural things.

I think if something is essential to you or is a frequent buy, that can change the inferred willingness to pay for a product in a way that could have a negative impact for different cultural practices and households.

Fares Al Soud: With that in mind, do you believe all forms of inferred information should be off-limits for pricing purposes? I think of my prior examples. I don't mind grocery stores and rewards programs offering me products that I'd be purchasing anyway. The scary notion would be those same grocery stores upping the prices on products that I'm more likely to purchase.

Sarah-Louise Ruder: I think it's up to the government to decide. We could decide that for specific applications—for groceries, other essentials and even gasoline—these inferred characteristics and any algorithmic pricing are unlawful and unfair. That's something I would support.

Fares Al Soud: That's fantastic.

You previously highlighted that surveillance pricing requires an immense amount of data about consumers. I believe this was in your article “Canada can stop surveillance pricing before it reaches the checkout”.

Many Canadians view loyalty programs as a way to save money on their groceries. Do you suspect consumers' habits might change if they knew just how much information was being collected about them?

Sarah-Louise Ruder: I think it might be difficult. When the cost of living is so high, we all look for places to save on grocery bills. Even if there were greater awareness, the ability to make a change and say they won't take advantage of those promotions even though they might be spending a few dollars more on groceries might be a decision that is quite difficult for many families across the country to make.

Certainly, an alarm would go off, but when we see consumers more concerned about something, it doesn't always mean they're able to make a change toward protection. Loyalty programs are one thing that when grocery prices are so high, it might be a hard sell to say to consumers not to use them when those points can be quite helpful at the checkout.

Fares Al Soud: That's a really interesting angle.

As members of this committee, we have the privilege of getting to hear this testimony. We get to learn more from experts like yourself about the challenges in this space, but your average Canadian doesn't have the time to think about what algorithmic pricing means for them. They have hockey practice to get to. They spend half an hour at the grocery store, if they can afford to spend that half an hour in the grocery store.

Do you believe the current system places those who are perhaps most vulnerable in the worst of positions, that position of vulnerability in those grocery stores?

● (1155)

Sarah-Louise Ruder: Absolutely.

We could also talk about how quickly prices change and these different experiments in willingness to pay happening. Sometimes the price goes up, and sometimes the price goes down. However, families and individuals who don't have time to double-check prices at multiple points in the week and who only have one window to do their groceries in will be at greater risk and disadvantage from these practices. This can even be in bricks and mortar stores, if those prices are changing hourly or daily on electronic shelf labels.

Fares Al Soud: Professor Clark, in the very little time I have left, I would be very curious to hear from you.

You mentioned earlier that Canada has a competition problem. One of the challenges is this notion of personalized pricing.

In your opinion, where do we as policy-makers draw the line between legitimate dynamic pricing and pricing practices that may unfairly disadvantage consumers?

Robert Clark: It's about looking for the exploitation of consumers who have limited alternatives and high switching costs. We talked about the grocery store in the rural area. In some sense, it could also just be families with very limited time. They're going to have what economists call high search costs. Those high search costs are going to make it difficult for them to go around and identify the cheaper options that would allow them to fill their basket at a reasonable price.

It's a hard line to draw. All of you have to think about how to do it and where to draw a line between exploitation and firms just profit maximizing, which is what we want our firms to do.

The Chair: Thank you.

[*Translation*]

Mr. Hardy, you have the floor for two and a half minutes.

Gabriel Hardy: Thank you, Mr. Chair.

I'd like to thank the witnesses for joining us today to provide us with further insight into what is, after all, a very important issue.

Earlier, Ms. Ruder, you said that there is currently a crisis in Canada surrounding affordability and the cost of living. You said that food was more expensive than ever, that gas was more expensive, that a house was more expensive.

Do you think the cost of living has now peaked, or do you think we are genuinely facing this kind of crisis across the country?

Sarah-Louise Ruder: I'll answer in English this time.

[*English*]

Yes, there's a cost of living crisis, and food insecurity is one symptom we can see of that. Food insecurity is rising in the country instead of going down, and that is a grave concern.

No, I don't think the cost of living is where it should be right now, even with the many pressures on the price of groceries. If we look at food inflation across many countries, it is high. However, when food inflation started to go down in 2022, grocery prices continued to rise. There are concerns about profiteering. Price gouging is another thing that's entering the public vernacular, and it is concerning, especially for essential products like groceries.

[*Translation*]

Gabriel Hardy: If I understand correctly, the cost of groceries really has become a major issue, and more and more people are experiencing food insecurity and are forced to line up at food banks.

Again, this is a question of access to information. We must ensure that, when someone searches online for the best price, they're not feeding algorithms in a way that ends up working against them. I believe this is something that we, as decision-makers and legislators, should analyze to ensure we're protecting consumers and fellow Canadians.

[*English*]

Sarah-Louise Ruder: I've forgotten the name of the rebate, but I don't think providing additional funds for Canadians to use for groceries is going to be enough to address the food insecurity crisis in the country.

We see the number of visits and the number of patrons going to food banks rising across the country, with record highs in Toronto and Vancouver. That is a concern, and I think there's an obligation to protect consumers rather than providing reactive support in the form of some funds.

[*Translation*]

Gabriel Hardy: Thank you very much.

[*English*]

The Chair: Thank you, Dr. Ruder.

Mr. Shahnawaz, you have two and a half minutes.

Tanveer Shahnawaz (Beaches—East York, Lib.): Thank you, Mr. Chair.

Dr. Ruder, in an earlier response, you mentioned the need for more independent research when it comes to your focus on food insecurities or beyond that. Could you point to any specific datasets, sample populations or even hypotheses where you would hope more research would help us when we consider algorithmic pricing? I'm wondering if you could speak to that.

● (1200)

Sarah-Louise Ruder: I think there is a role for academics to conduct some of that independent research. I would also like to see it already from the Competition Bureau.

Algorithmic pricing and attention to the grocery area have been part of the "what we heard" report from 2025 and the discussion paper. I'd like to see more of that. It would take more resources and time to investigate independently, but I think it is worthy of investigation.

That would be my short answer to your question.

Tanveer Shahnawaz: Thank you very much.

Mr. Clark, would you want to respond in terms of what you had to say today about collusion and algorithmic pricing being used towards collusive strategies?

Robert Clark: Do you mean in terms of what research is required?

Tanveer Shahnawaz: That's right.

Robert Clark: I think we'd like to see more empirical research. That is, instead of the theoretical, computational research that's been done, we'd like to see more studies of what actually happens when algorithms do come into a particular market.

As I mentioned in my opening remarks, the problem is that we don't really know. We don't know which markets are hit by algorithms and we don't know which firms have adopted those algorithms. This is where a census of adoption would be particularly useful, because then we could do a lot more work to really understand the impact.

Tanveer Shahnawaz: Thank you.

The Chair: Thank you, Mr. Shahnawaz.

Professor Clark and Dr. Ruder, I want to thank you for taking the time to be part of this study with our committee today. On behalf of the committee and on behalf of Canadians as well, I'd like to thank you.

We're going to suspend for a bit while we switch over to the second hour. We'll be back in a few minutes.

The meeting is suspended.

● (1200)

_____(Pause)_____

● (1205)

The Chair: I want to welcome everyone back for our second hour. We have two witnesses this hour.

We have, as an individual, Mr. Maxime Cohen, who is the Scale AI chair, professor and academic director of retail and operations management at the Bensadoun School of Retail Management at McGill University.

That is a title, Mr. Cohen.

We have, from the Montreal AI Ethics Institute, Mr. Renjie Butalid. He is the co-founder.

I'm going to start with you, Mr. Cohen. You have five minutes for your opening remarks to committee. Go ahead, sir.

Maxime Cohen (Scale AI Chair, Professor and Academic Director, Retail and Operations Management, Bensadoun School of Retail Management, McGill University, As an Individual): Thank you very much. It's a pleasure to be here.

My name is Maxime Cohen. I am a professor at McGill University. I hold the Scale AI chair in data science for retail and I serve as an academic director of the Bensadoun school.

[*Translation*]

I will be delivering my remarks primarily in English, but I'll be happy to answer questions in either French or English.

[*English*]

The Chair: Hang on for a second.

[*Translation*]

The sound is loud.

● (1210)

Luc Thériault: It's loud in the room.

The Chair: Can we please lower the volume in the room a bit?

[*English*]

Mr. Cohen, can you just give us a little bit of a test here, please?

Maxime Cohen: Yes. Can you hear me better now?

[*Translation*]

The Chair: Is that better, Mr. Thériault? Do you want us to lower the volume a bit more?

[*English*]

Why don't we continue and then we'll see where it goes.

I have stopped the clock, Mr. Cohen. If you want to restart, you're more than welcome to go ahead, sir.

Maxime Cohen: Okay, I appreciate it.

[*Translation*]

As I was saying, my remarks today will be mainly in English, but I am more than happy to answer questions in French or English.

[*English*]

For more than16 years, starting with my Ph.D. at MIT, my research has focused on pricing, economics, data science and AI. I have published extensively in leading academic journals. I serve on editorial boards of several journals and teach these topics to university students and business executives. Beyond academia, I have advised and consulted for many companies across various industries, including some of the world's largest technology firms, on pricing strategies, data science and the responsible use of AI.

I recently published a book with MIT Press. It's been a month and a half. The book is called *Pricing in the Age of AI*. You can see the copy here. The book examines how AI is transforming pricing and its implications for businesses, consumers and society.

Today I would like to share two key messages and three principles with the committee.

First, not all algorithmic pricing is surveillance pricing. This distinction is very important, in my opinion. Algorithmic pricing refers broadly to the use of algorithms to help determine prices. For example, a retailer may use an algorithm to reduce the price of products that are approaching their expiration dates, or a transportation platform may adjust prices in response to changes in supply and demand. These practices can improve efficiency, reduce waste and benefit consumers in some cases.

Personalized pricing is more specific. It typically refers to tailoring prices to individual consumers or groups of consumers based on information about their characteristics or behaviour. Surveillance pricing generally refers to forms of personalized pricing that rely on the collection, analysis or inference of personal information, potentially including sensitive information.

Importantly, personalized pricing is not inherently beneficial or harmful. Economic research shows that its effects highly depend on market conditions, competition and how prices are determined. It can sometimes expand access and lower prices for certain consumers. In other circumstances, it can increase prices, redistribute economic surplus toward firms or create unfair outcomes.

Second, AI is fundamentally changing what companies can learn about consumers and how they can use that information. Historically, personalized pricing relied on relatively simple information, such as location or purchase history. Today, machine learning—

The Chair: Mr. Cohen, I apologize. I'm getting an indication from Mr. Thériault that we don't have translation. We are trying to figure this out.

[*Translation*]

Luc Thériault: The sound isn't good.

The Chair: Okay, the sound isn't good for the interpretation.

[*English*]

We're trying. I'm going to keep talking to see if we can solve this problem.

Is it good now?

[*Translation*]

Luc Thériault: The sound quality from the witness joining us by video conference is not good.

The Chair: You're saying that the sound quality isn't good. Is that right?

Luc Thériault: Yes, that's right. It's not me; it's the witness.

[*English*]

The Chair: We're going to suspend for a minute.

Mr. Cohen, hold your thoughts there. We're going to try to figure this out at our end.

Thank you.

● (1210)

_____(Pause)_____

● (1215)

The Chair: We're back to the meeting after a little technical issue.

Mr. Cohen, you have just over two minutes to complete your opening statement, sir. Go ahead.

Maxime Cohen: Thank you very much.

In my second point, I was saying that, historically, personalized pricing relied on relatively simple information, such as location or purchase history, but today, machine-learning algorithms can analyze large amounts of data and identify complex patterns that would be difficult for humans to detect.

More importantly, AI can infer sensitive characteristics without having direct access to them. For example, an algorithm may estimate a consumer's income from seemingly innocuous information, such as browsing behaviour. In my research, I have studied how AI-driven pricing can affect different consumer groups and how fairness constraints can be incorporated into pricing algorithms to balance economic objectives with consumer welfare. It's worth highlighting that restricting the use of explicitly sensitive personal information may not be sufficient, since other data can serve as proxies for sensitive characteristics.

Generative AI adds another layer of complexity, making sophisticated pricing tools more accessible and introducing new challenges related to transparency, consistency and accountability.

To conclude, I would encourage policy-makers to focus on three principles.

The first is transparency. Consumers should have meaningful information about when and how their data influences the prices they receive. Transparency also matters for regulators.

The second one is auditability and accountability. Companies should be able to document and evaluate the data, algorithms and decision rules underlying their pricing systems. This includes testing for systematic differences across consumer groups and assessing if those differences are economically justified and consistent with applicable laws.

The third one is evidence-based oversight. Policy-makers should evaluate not only how pricing algorithms operate but also the actual effects on consumers and competition. The oversight needs to examine the entire pricing system, including the data, the algorithm, the objective, the constraints and, increasingly, the prompts guiding AI systems. Ultimately, the same AI technology can produce very different outcomes, depending on how it is designed, implemented and governed. Effective regulation should, therefore, focus on identifying and addressing harmful practices while preserving the potential benefits of these technologies.

As AI continues to transform how prices are determined, Canada has an opportunity to develop a thoughtful, evidence-based framework that protects consumers and their privacy, promotes fairness and competition, and enables Canadians to benefit from responsible innovation.

Thank you for your attention. I look forward to your questions.

The Chair: Thank you, Mr. Cohen. Again, I apologize for the technical difficulties.

Mr. Butalid, you have five minutes to address the committee, sir. Go ahead.

Renjie Butalid (Co-Founder, Montreal AI Ethics Institute): Mr. Chair and members of the committee, thank you for inviting me to appear today.

My name is Renjie Butalid. I'm the co-founder and director of the Montreal AI Ethics Institute, or MAIEI. In “The State of AI Ethics Report” which we just published last week—now in its eighth volume—we examine how AI systems shape power, distribute risks and affect people's ability to exercise meaningful agency. At MAIEI, we approach AI ethics as an ongoing inquiry into the consequences of these systems, the rights of those affected and the responsibilities of institutions that deploy them. At a time when Canadians are facing significant affordability pressures, pricing systems that use personal information to determine what consumers are charged require careful attention.

Algorithmic pricing, as my colleague just mentioned, is already used across many industries. Airlines adjust fares based on demand and seat availability, retailers mark down food approaching expiry, and ride-sharing services adjust fares in response to supply and demand. What we need in Canada is a clear distinction between algorithmic pricing that responds to market conditions and surveillance pricing that uses personal information to determine what individual consumers are charged.

Ordinary promotions, loyalty programs and some individualized discounts can offer legitimate consumer benefits. However, information collected for one purpose could be used for another without consumers' knowledge or meaningful consent, including to determine what prices or discounts they receive. AI can amplify these concerns through its sophistication, speed and scale. AI-enabled systems can analyze large amounts of consumer data, infer personal circumstances and adjust individualized prices, making these practices more difficult to identify or challenge. Businesses could use the systems to estimate how much an individual might be willing to pay, yet willingness to pay does not necessarily reflect freedom to choose. A parent urgently buying baby formula may have few alternatives. A surveillance pricing system could interpret that necessity as an opportunity to charge that parent more.

Drawing on our work in AI ethics, I'd like to make five points about how Canada should approach surveillance pricing.

The first point is about clear and enforceable regulatory expectations. I recommend a general prohibition on surveillance pricing, where businesses use personal information, behavioural data or inferences about individual consumers to determine individualized prices. This prohibition should apply regardless of whether businesses use AI or simpler automated systems.

The second point is about information asymmetry. Businesses have access to information about their pricing systems and how consumer data is used that individual consumers typically do not. They could use purchasing history, location, data and behavioural information to assess consumers' circumstances and willingness to pay. Consumers may not know what information is being used, what inferences are being made about them or how these inferences influence the prices they are offered.

The third point is about meaningful transparency and choice. Canadians should know when their personal information is used to determine individualized prices or discounts. Where exceptions permit these practices, consumers should have a meaningful opportunity to consent or decline.

The fourth point is about fairness and evidence. We need to understand why prices differ among consumers, what information businesses use and whether certain households or communities are systematically disadvantaged. Different prices alone do not establish unfairness. A difference might reflect a public promotion, a loyalty benefit based on established eligibility criteria or an individualized offer. Examining the reasons behind those differences can help identify surveillance pricing, assess its effects on consumers and distinguish it from legitimate pricing practices.

The fifth point is about accountability and compliance. Business operators should demonstrate that their pricing system complies with these restrictions. They should document what information their system uses, how prices are determined and the basis for any permitted exceptions. They should also test and monitor their system for prohibited practices.

These protections require effective regulatory oversight and accessible ways for Canadians to challenge suspected surveillance pricing and seek redress. Consumers cannot reasonably be expected to prove practices they cannot see. I encourage the federal government to work with provincial and territorial governments to establish enforceable baseline expectations while respecting jurisdictional responsibilities. We have an opportunity to establish these protections while the technologies and practices are still evolving. Once surveillance pricing becomes embedded, changing it may become more difficult and costly.

I'll conclude by returning to AI ethics. The ethical questions begin long before a consumer sees the price. They begin with the decisions about what personal information is collected, what an algorithm should look for and whether an individual's circumstances should determine what they are charged. In surveillance pricing, people with the least flexibility may be most exposed to harm. Establishing clear regulatory boundaries and holding businesses accountable are foundational to responsible AI governance.

Thank you. I look forward to your questions.

● (1220)

The Chair: Thank you.

[*Translation*]

Mr. Hardy, you have the floor for six minutes.

Gabriel Hardy: Thank you, Mr. Chair.

Once again, I'd like to thank the witnesses for joining us today.

I believe there is a critical need to examine this issue. There are no existing laws in Canada on this subject. The public is learning about it through what we're doing here.

Professor Cohen, on November 4, I mentioned that algorithmic pricing could even set salaries. For example, if a nurse or anyone else is struggling to pay their mortgage and really needs to work, an employer or a company could offer them a lower salary, knowing that the person needs the money badly.

Currently, to what extent does the law prevent a person or a company from doing this—essentially using AI to analyze the situation and then offering lower wages? Are you already seeing this occur? Is this something we really ought to be paying close attention to at the moment?

● (1225)

Maxime Cohen: Thank you very much for the question.

I think it's very important to include the issue of wages in the pricing decision. It's an extremely important application for society, in my view. I recently did some work that was published in the Harvard Business Review, in which we asked a number of AI systems—eight major language models—to provide salaries and hourly rates. We looked at whether there were differences, for instance, based on the contractors' gender, age or profile. I've done a lot of academic research on that.

I do think it's very important to regulate the situation and establish clear rules that must not be broken. As you said earlier, vulnerable situations should not be identified and exploited to pay employees less, nor should systematic distinctions be made on the basis of gender, religion, race or age. Those are things that I think are important to regulate.

Gabriel Hardy: We're seeing it more and more: artificial intelligence is taking over large swaths of our lives, across the board. Certain indicators have emerged. For example, when a publication is AI-generated, a warning is displayed.

In the case of companies using AI to adjust prices or salaries, should people be informed? For example, should they be warned that, by the way, following surveillance carried out by AI, they are now paying a different price than everyone else, or that—because it was observed that they needed to work—they are receiving a lower salary than their colleague next to them?

Where does this lead if we let it go on?

Maxime Cohen: I think transparency is very important. In August, the U.S. Federal Trade Commission specifically called for transparency regarding the use of AI in pricing decisions. It is very important to inform consumers so that they are aware of what is happening. They need to know what data is used to set prices—or, as in your example, to set wages—and how that data is used. It is very important to know whether there are any constraints to be observed or boundaries that must not be crossed when it comes to this data.

So, ensuring transparency and disclosing the processes used—that is, trying to explain and describe them clearly—is, in my view, important.

Gabriel Hardy: As we know, established pricing methods have long involved determining the cost of production and then the profit one wishes to make on a product. There is a whole supply chain. The product can be sold to a distributor, who will then resell it. Everyone makes a profit. Ultimately, a price is displayed. Companies will often claim that the price is the same across the world. For example, a pair of glasses is sold at a certain price. Usually, certain discounts may apply to the product—if you're a student, for instance, or if it's last year's model and a new one just came out. That said, a ceiling price is set and, possibly, a floor price. Sometimes, the price is lowered even further to attract customers: a product is sold below cost in the hope that people will buy something else as well.

Now that algorithmic pricing exists, ceiling prices no longer apply. The trend is moving towards a practice where the highest possible price is set based on the customer's ability to pay. Ultimately, the customer is monitored to drive prices up. That's more or less our understanding of it.

Maxime Cohen: I'm not sure I agree that there are no longer any price ceilings. There are still clear and definite prices, and there is also a reputational cost. I discuss this at length in my book. If retailers start charging exorbitant prices and taking advantage of consumers, there will be a problem with consumer trust and loyalty, and a reputational problem for the company. That's one thing to bear in mind.

Furthermore, in competitive markets, there is still a limit in relation to other competitors that cannot be crossed.

You're right—the limit is less clear and less explicit than it used to be, but I think it still exists.

● (1230)

Gabriel Hardy: You're correct if it's a recreational product. However, when it comes to basic needs—such as housing and food—people are trapped; they have to buy food at the grocery store. We talked about this earlier—people aren't going to shop for three, four, or five hours just to decide where to buy their chicken. They have an hour in the evening to do their grocery shopping. They're with their families, so they hurry and head to the neighbourhood store to get their groceries. When you're trapped, there can't be that kind of reputational impact.

Do you feel that this kind of scheming—as it could be described—will really drive up the cost of living for Canadians?

The Chair: You have 30 seconds to respond, please.

Maxime Cohen: I think that's a very relevant question.

It supports the fact that there must be responsible adoption, particularly on the part of the companies themselves. This means that companies themselves must use transparent processes, with special limits and restrictions, to ensure they do not engage in practices that are harmful to consumers. External regulatory bodies also play a role. They must enforce audit and oversight systems precisely to prevent such situations from arising.

I think it really depends on each individual case. It's a very challenging issue, and it's quite difficult to know where to draw the line.

The Chair: Thank you, Mr. Cohen.

[*English*]

Mr. Shahnawaz, you have six minutes.

Tanveer Shahnawaz: I'm letting Mr. Fanjoy start first.

The Chair: Go ahead, for six minutes, Mr. Fanjoy.

Bruce Fanjoy (Carleton, Lib.): Thank you, Chair. I will be sharing the time with Mr. Shahnawaz.

Thank you, witnesses.

Mr. Cohen, I'd like to start with you.

What concerns me on this question is the power imbalance between consumers and the businesses they're buying from. It seems to me that the ability to experiment with pricing, which we've heard about from previous witnesses, means that prices can change instantaneously an infinite number of times. Businesses are incented to try to maximize profits. I understand that. I have a business background.

Although there may be benefits from time to time for the consumer, would you agree that algorithmic pricing is inherently inflationary because companies have a strong motivation to maximize their profits?

Maxime Cohen: That's a great question.

Actually, I partially disagree. In 2024, we published an article in Harvard Business Review and reported on the lessons we learned from 1,000 price experiments with 300 retailers. We found that in the vast majority of cases the prices set by the retailer before the experimentation were higher than the prices we tested during the experimentation. Oftentimes, retailers tend to overestimate the price they think is the right price. By doing price experimentation or testing, we can actually discover a price that is.... In the case that I reported, half of the time it was actually lower than the original price, so it benefited consumers.

Going back to your question, I do agree that there is some sort of asymmetry between the capabilities or the sophistication of companies on one hand and consumers on the other. I'm also cautiously optimistic, because with the rise of AI, and in particular agentic AI, we can each build an agent and delegate shopping decisions. The agents can somewhat do the comparison shopping by comparing a multitude of different competitors for me. Agents can also check the prices every few minutes, which is something I couldn't do before because I didn't have access to those types of capabilities. With my own AI agent, I will soon be able to compete with retailers.

This asymmetry in capabilities is shrinking a bit with advances in AI. That's why I'm cautiously optimistic.

Bruce Fanjoy: Could governments use AI to help control AI in industries like groceries? Can we build AI rules to help protect consumers so that their personal information is not being used against their interests?

Maxime Cohen: I believe so, but it has to be done with extreme care and extreme ethical and responsible principles.

There is a lot of academic research saying to fight fire with fire. If AI comes and somewhat disrupts a specific domain, there is always an opportunity to counter-attack by also using AI to make sure that you can regulate, monitor or somewhat control that this adoption is done in the right way.

Now, when you start using AI, you have to make sure that you put in place the right validation processes, testing approaches and protocols. It has to be done with care, but the short answer is yes.

● (1235)

The Chair: Mr. Fanjoy, I've stopped your time.

The bells are ringing. I'm going to need unanimous consent to continue. I expect the vote will be at around one o'clock or so. It's in 29 minutes.

Can we continue until 10 minutes to one before we suspend for the votes? Is there unanimous consent for that?

Some hon. members: Agreed.

The Chair: Mr. Shahnawaz, your clock has started. You have two minutes and 20 seconds.

Go ahead.

Tanveer Shahnawaz: Thank you, Mr. Chair, and thank you to my colleague for sharing his time.

Mr. Cohen, I'll go back to you. I'm curious because you list your research collaborations with retailers, both American and Canadian—Loblaws and Canadian Tire specifically being Canadian-owned and operated. Are you able to speak to any specific nuances or differences in the landscape of how Canadian companies might be using algorithmic pricing versus other, larger American MNCs?

Maxime Cohen: Yes.

I believe the comparison is very hard because it's on a case-by-case basis. Even within American retailers, I saw drastic differences from one retailer to the next. It's similar for Canadian retailers. Each retailer has different processes, different types of data pipelines, different types of training algorithms, different types of validation, different types of objectives, different types of constraints.

Therefore, it's unfortunately impossible to give a blanket answer comparing two countries wherein, within each country, within each industry, within each market, there are very pronounced differences.

Tanveer Shahnawaz: Thank you for that.

Maybe just diving a bit deeper, are there any clear distinctions in the Canadian landscape compared to, say, America, or even other jurisdictions across the world?

Maxime Cohen: I think the market is smaller in Canada. If you look at America, it has around 10 times the population and many more players in the economy. The competitive landscape is very different in both countries, so it gives rise to different types of behaviour. It's a similar situation with the GDP and the average income. There are also some nuances across different provinces here, across different states south of the border. Unfortunately, there is so much heterogeneity within the country and within different verticals of the economy that it would be hard, but if I had to point to one difference, it would be the competitive landscape.

Tanveer Shahnawaz: Thank you.

The Chair: Thank you, Mr. Shahnawaz.

[*Translation*]

Mr. Thériault, you have the floor for six minutes.

Luc Thériault: Thank you, Mr. Chair.

This morning, I asked the following question: What is a fair price and what is an equitable price? In my opinion, that's a fundamental ethical question. I received some rather unusual and somewhat technical answers.

There's a lack of research. Mr. Cohen conducted some with a few companies, as I understand it. However, witnesses told us that there was a lack of research.

There's a lack of resources. There's a lack of oversight capacity. There's a climate of opacity, not transparency. There are no means to ensure that transparency is, from the outset, something that is respected or a rule.

As Mr. Fanjoy said, there's an imbalance between supply and consumer power.

As for auditing systems, I don't know of many. Once there is a decision to have one, we need to know who will carry it out, what the basis for it will be and what resources we'll have to do so.

We're even talking here, as Mr. Clark mentioned, about the possibility that an AI system operating without human intervention could engage in algorithmic collusion. This isn't a walk in the park; we're in a situation that's beyond us. Yet this morning, I'm being asked to try, as a legislator, to regulate all of this.

I'll let you gentlemen speak, but I'll start with Mr. Butalid.

As a legislator, faced with this reality, shouldn't I, first and foremost, ban this practice—even if it means setting acceptable parameters later on? Can I rely on what I'm being told—that there is a way to control this—when I don't even know where to start?

I'll let you answer.

● (1240)

[*English*]

Renjie Butalid: Mr. Thériault, if I may, I'll provide a way to think about this, not in the abstract, but in a very practical manner.

I'm sure many of us around the room have used Uber or Lyft and have seen the surge pricing, whether it's 1.5 times, two times or three times, depending on market conditions, the weather and so on. Of course, we're going to have different prices, because we're going to different places and we're going to be in the Uber for different amounts of time. Algorithmic pricing with surge pricing makes sense.

The challenge with surveillance pricing is if Uber, based on what it knows about me—my postal code, how often I use the Uber app, whether my credit card is tied to a company credit card and therefore I have more of an ability to pay versus a single parent or what have you—charges me two times or three times and somebody else 10 times for the same weather event. I think that's the crux of the matter. It's algorithmic pricing to determine whether it's supply and demand or availability. I think there is an element that's already happening, which is supply and demand, but if I, as your everyday Canadian consumer, give information to a company to use their service or to sign up for their app—their grocery app, like Costco, for example—and they use that information to determine that I have more of an ability to pay, that's where it becomes an issue.

In my remarks, I've called for a general prohibition on surveillance pricing before we can understand it more. I would agree that we don't have a lot of information on the impact of surveillance pricing across the board just yet. While I am very optimistic about the adoption of AI agents, I think about the single parent who's just trying to get by and is trying to buy diapers or baby formula. I mentioned that the people who have the least amount of flexibility are more prone to being taken advantage of, because companies recognize that they will be willing to pay. There was a conversation earlier about wages. The same could be applied to wages. If companies know that your desperation to find work is at an all-time high, they may be in a position to pay you much lower wages compared to other people.

I think it's about the use of the data you give, your personal information for one use, whether it's to sign up and be a member, and that's then used to infer different prices based on who you are. I agree with you that there should be a general prohibition to ban surveillance pricing—not algorithmic pricing in general, but surveillance pricing, which is the use of data to inform how the prices are set for you as an individual—until we can learn more.

If we were to just let it run rampant and that infrastructure is fully set in a few years, it will be hard to untangle that infrastructure once it's already out there and the practice has been set. That's how I would think about surveillance pricing in this regard.

[*Translation*]

Luc Thériault: Mr. Cohen, do you agree with that?

Maxime Cohen: Yes, I generally agree, but I'd just like to add one thing.

[*English*]

Maybe I will switch to English.

It's very hard to strike the balance and where to put the line. When Monsieur Thériault asked the question, he asked about forbidding these practices without making it extremely explicit that we're talking about algorithmic pricing in its full generality or, like other witness said, that algorithmic pricing is fine but surveillance pricing is not fine.

I think—

[*Translation*]

Luc Thériault: I was talking about surveillance pricing algorithms.

[*English*]

Maxime Cohen: Exactly, so putting the line is going to be very hard—

The Chair: I need a quick response, please.

Maxime Cohen: Okay.

That's why we're here today. This is a very complex topic. It has a lot of subtleties. It has a lot of contextual information that needs to be taken into account. As we mentioned before, airline companies have been doing that for more than three decades in using dynamic pricing and revenue management systems. This was not an issue before.

Where to put the line, where to limit those practices, what is acceptable and what is not acceptable are not easy questions to answer. That's why it requires a lot of thought, instead of just forbidding everything.

The Chair: Thank you, sir.

We'll go to Mr. Jivani for five minutes. That will probably take us to the end.

Then we'll suspend the meeting and come back for the next rounds.

Mr. Jivani, go ahead for five minutes.

Jamil Jivani (Bowmanville—Oshawa North, CPC): Thank you, Mr. Chair.

Mr. Butalid, thank you for your presentation. I want to give you the chance to elaborate more on how we can make sure there is a clear divide between where dynamic pricing turns into surveillance pricing.

You gave the example of Uber, for instance. What would it require to make sure that app isn't constantly collecting your information and using it in ways that you might not even be aware of?

We've heard from previous witnesses about the idea of consent, for example. Would that be a potential solution?

● (1245)

Renjie Butalid: Thank you, Mr. Jivani.

One thing that I think about when it comes to this is ensuring that companies document how they're actually building out their pricing systems. Part of it is being able to demonstrate what the inputs going into the pricing systems are and what the outputs are—the two times and three times surge pricing—and then looking at the outcomes. I think as regulators or legislators, that's what you'd be looking at. You'd be looking at what the outcomes are. Is it unfairly targeting not just one individual but perhaps a neighbourhood or a certain geographic location?

I think if you want a framework to think about it, it would be this: What inputs are being used? Did consumers consent to use that input to go into the output, which is the price? Is that price available? In the case of a loyalty program or a discount program, that's generally available. That is the output. What are the outcomes? Is it the price given to consumers who have been part of the company? Do they get a lower price? I think that's fine, because it's general practice to retain customers to grow your business, but if the outcome is that the input is being used in a way that is unfairly targeting certain segments, then I think that's where the challenge is.

As the previous witness said, it is a very nuanced conversation, but that's how I would think about the approach: Understand where that line is. What are the inputs, what are the outputs and then what are the outcomes?

Jamil Jivani: Thank you, Mr. Butalid.

Mr. Chair, I know that we'll have to end shortly. I want to advise the committee of a motion that I intend to bring forward.

It's not every day that we get a letter from the Prime Minister sent to our committee in which he acknowledges the need for an ethics screen between himself and Telesat CEO Dan Goldberg. He in fact refers to it as proactive, but it does seem to be a response to work that this committee has done. He does note in his letter to the committee that it is a response to current public attention to Telesat.

I would like to read out the motion for the record.

The Chair: Go ahead.

Jamil Jivani: The notice of motion is as follows:

> That, having regard for the Liberal Government's recent decision to enter into a non-competitive, directed contract with Telesat valued at $2.3 billion, and given the known personal connections between Telesat CEO Dan Goldberg and Prime Minister Mark Carney, and given that the Prime Minister has initiated the process of applying a conflict of interest screen to Telesat only after this contract has been awarded, the committee undertake a study of potential conflicts of interest arising from the awarding of this contract, and, for this purpose:
>
> a) Invite the following witnesses to appear:
>
> i) Dan Goldberg, CEO Telesat;
>
> ii) Doug Guzman, CEO of the Defence Investment Agency;
>
> iii) Michael Sabia, Clerk of the Privy Council and Secretary to the Cabinet of Canada;
>
> iv) Marc-André Blanchard, Chief of Staff to the Prime Minister;
>
> v) Appropriate officials from the Defence Investment Agency; Public Services and Procurement Canada; the Department of National Defence; Innovation, Science and Economic Development Canada; the Privy Council Office; and the Treasury Board Secretariat;
>
> vi) The Conflict of Interest and Ethics Commissioner; and
>
> vii) Other witnesses as may be proposed by the committee;
>
> b) Order the production of the following documents, unredacted and in both official languages, by no later than 30 days following the adoption of this motion:
>
> i) All contractual instruments between the Government of Canada and Telesat or its subsidiaries relating to the Enhanced Satellite Communications Project—Polar (ESCP-P);
>
> ii) All Treasury Board submissions, decisions, approvals and related records concerning ESCP-P;
>
> iii) All assessments housed in any government department or agency of the capacity to deliver the project, including assessments of the financial risks to the Government of Canada; and
>
> iv) All records housed in any government department or agency, including but not limited to briefing notes, memoranda, correspondence, emails, text messages, instant messages, meeting agendas, meeting minutes, records of conversations, and summaries of assessments pursuant to the Assessment Tool on the Application of the Prime Minister's Conflict of Interest Screen concerning the potential for real or perceived conflicts of interest arising.

Thank you, Mr. Chair.

● (1250)

The Chair: Thank you, Mr. Jivani. That is a motion that has been put on notice. It is accepted, as well.

Before we leave, I have a study budget that needs to be approved.

I'm asking for unanimous consent from the Standing Committee on Access to Information, Privacy and Ethics for the study on the use of artificial intelligence in algorithmic pricing. It's a study budget. The amount requested is $14,750.

Do we have unanimous consent for that?

Some hon. members: Agreed.

The Chair: Okay.

Gentlemen, we have a vote coming up. We're not going to come back after the vote, which is going to take roughly 20 to 25 minutes. Rather, I'm going to ask you to submit any further information you would like to provide to the committee, in the context of this study, in the form of a brief. Please feel free to contact the clerk if you have more information. I appreciate your time. Thank you.

The meeting is adjourned.

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