

Webinar on dynamic pricing in digital consumer markets: Risks, fairness and enforcement

UNCTAD informal Working group on consumer protection in e-commerce, February 12, 2026

On 12 February 2026, UNCTAD's informal working group on consumer protection in e-commerce (WGE) organized a webinar to examine the rise of dynamic and algorithmic pricing in digital markets. The webinar brought together researchers and academics, consumer protection authorities, and civil society representatives to discuss how while these techniques can improve market efficiency, they also raise important consumer protection questions, including transparency, fairness, discrimination, and the potential use of dark patterns or personalised offers that exploit consumer vulnerabilities. The event attracted over 120 participants from across the globe.

Opening the session, Valentina Rivas, from the Competition and Consumer Policies Branch of UNCTAD recalled that the United Nations Guidelines for Consumer Protection call for transparent and effective policies in e-commerce, ensuring that online consumers enjoy a level of protection not less than that afforded offline. Professor Christine Riefa, Academic Coordinator of the informal working group, situated the discussion within the group's broader work on artificial intelligence: after focusing in recent years on how enforcement agencies can harness AI tools, this webinar shifted the spotlight to the risks that AI-enabled pricing practices may pose to consumers.

A recurring theme throughout the discussion was definitional ambiguity. "Dynamic pricing" does not have a single legal meaning and is used interchangeably with terms such as "variable pricing," "personalised pricing," or "algorithmic pricing." This lack of conceptual clarity already presents challenges for enforcement.

The first presentation was delivered by Professor Mateusz Grochowski from Tulane University School of Law. His presentation examined dynamic pricing as part of the broader transformation of markets driven by big data and algorithmic systems. He described a spectrum of pricing models ranging from fixed prices to dynamic prices that change over time, and further to personalised prices tailored to individual consumers at a specific moment. While variable pricing is not new, he explained that digital technologies allow firms to estimate consumers' willingness to pay with far greater precision than in the past.

Professor Grochowski highlighted several concerns associated with this development. These include the potential for data-driven discrimination, the exploitation of consumer vulnerabilities, intrusive data use and surveillance, and reduced transparency where pricing decisions are automated. He also discussed the competition law dimension, referring to debates on algorithmic

collusion and the possible role of shared third-party pricing software. With regard to regulatory responses, he noted that disclosure obligations have emerged in some jurisdictions, including in the European Union and in certain U.S. states. However, he questioned whether disclosure alone is sufficient where consumers cannot meaningfully opt out of personalised pricing or switch to alternatives.

The second presentation was delivered by Mr. Simon Jones from the United Kingdom Competition and Markets Authority (CMA). He presented findings from a study concluded in 2025 across sectors such as airlines, hotels, retail, live events and ride-hailing. The study was developed as a companion piece to the CMA's formal investigation into the sale of tickets by Ticketmaster for the Oasis reunion concerts, which had generated significant public concern in the United Kingdom regarding alleged use of dynamic pricing. Mr. Jones clarified that the CMA ultimately concluded that Oasis tickets had not been sold through dynamic pricing mechanisms in the strict sense examined by the authority, but the case nevertheless prompted broader scrutiny of pricing practices in digital markets.

He explained that the CMA adopted a business-centred definition of dynamic pricing as the rapid and frequent adjustment of prices in response to changing demand. He noted that while algorithmic systems are often involved, dynamic pricing does not necessarily rely exclusively on algorithms and may include human oversight, particularly where reputational considerations are at stake.

Drawing on the CMA's cross-sectoral analysis, Mr. Jones highlighted that dynamic pricing can improve efficiency in capacity-constrained sectors (e.g., airlines, hotels and live events) and encourage additional supply in ride-hailing during peak demand. He cautioned, however, that consumer harms arise when price fluctuations are opaque, change rapidly during the purchase journey, or create pressure to buy quickly—particularly affecting vulnerable consumers. He underscored that outcomes depend on market structure: competition can help pass efficiency gains to consumers, while concentrated markets may entrench market power and higher prices.

The third presentation was delivered by Mr. Eric Gardner from More Perfect Union and Ms. Grace Getty from Consumer Reports. They presented the findings of a joint investigation into pricing practices on Instacart in the United States. Through a series of controlled experiments involving 437 participants selecting identical products at the same time, the investigation found that many products displayed multiple simultaneous prices, with evidence suggesting the use of “price bucketing,” whereby consumers were grouped into different pricing tiers. The average difference in basket prices was reported to be approximately 7 per cent, and most participants were shown prices above the lowest available tier.

Mr. Gardner explained that Instacart described these differences as random price testing not based on personal data. However, the investigation identified patents and public documentation

suggesting segmentation tools and willingness-to-pay analysis. Following publication of the findings, members of United States Congress and State authorities sent inquiries, and media reports indicated that the US Federal Trade Commission had opened a probe. Ms. Getty also described legislative developments in the United States, where several states are considering both disclosure requirements and prohibitions relating to “surveillance pricing.” She noted that enforcement capacity remains a key challenge, particularly given limited technical expertise and resources.

The final presentation was delivered by Ms. Els Bruggeman from Euroconsumers. She provided a European consumer advocacy perspective and explained that while dynamic pricing is not yet as widespread in Europe as in the United States, it is becoming increasingly visible. She acknowledged that dynamic pricing may be legitimate in certain contexts, such as reducing food waste or encouraging off-peak consumption. However, she stressed that fairness and transparency are essential conditions.

Ms. Bruggeman referred to complaints involving airlines and ticketing platforms, noting that existing consumer law does not prohibit dynamic pricing as such, even where prices increase during the purchasing process. She highlighted particular concerns in highly concentrated live-event markets, where consumers have limited alternatives and prices may escalate significantly. In such contexts, she argued that stronger safeguards, and potentially sector-specific restrictions, may be warranted.

Presentations were followed by a Q&A session managed by the moderator.

Participants raised questions regarding algorithmic collusion and whether current competition law frameworks are equipped to address coordination facilitated by pricing software. Professor Grochowski explained the distinction between shared third-party pricing tools used by multiple firms and independent algorithms adjusting to competitors’ prices. He noted that while some litigation in the United States has addressed these issues, legal standards remain in development.

Questions were also raised about practical interventions for authorities with limited technical capacity. Mr. Jones suggested that proportionate transparency measures—such as informing consumers that prices may change, explaining key influencing factors, and ensuring clarity at checkout—can be implemented without requiring complex algorithmic audits.

Participants further inquired about the effectiveness of prohibition models. Ms. Getty explained that some U.S. legislative proposals combine public enforcement with private rights of action, allowing consumers to seek redress directly. This may be particularly relevant in contexts where regulatory agencies face resource constraints.

Technical questions were posed regarding the interpretation of the Instacart findings, including whether observed price variations might reflect reference pricing strategies. Mr. Gardner acknowledged this possibility in theory but noted that available documentation suggested revenue optimisation objectives. He emphasized that the full dataset had been made publicly available for independent scrutiny.

Finally, a question was raised on the barriers encountered in European enforcement cases. Ms. Bruggeman noted that authorities often struggle to apply traditional consumer protection rules to rapidly changing digital pricing practices. Even where transparency is provided, frequent price changes may create behavioural pressure and perceptions of unfairness.

To conclude the session, Professor Riefa summarized the key insights, highlighting that while dynamic pricing can generate efficiencies, it also raises important concerns relating to fairness, transparency and market power. She emphasized the need for continued dialogue, regulatory clarity and international cooperation to ensure that digital pricing practices remain consistent with consumer protection principles.