

119TH CONGRESS
1ST SESSION

H. R. 1788

To prohibit the use of algorithmic systems by food producers to artificially
inflate the price or reduce the supply of their foods.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2025

Mr. FROST introduced the following bill; which was referred to the Committee
on the Judiciary

A BILL

To prohibit the use of algorithmic systems by food producers
to artificially inflate the price or reduce the supply of
their foods.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Grocery Pricing
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) CHAIR.—The term “Chair” means the
9 Chair of the Commission.

1 (2) COMMISSION.—The term “Commission”
2 means the Federal Trade Commission.

3 (3) CONSCIOUSLY PARALLEL PRICING COORDI-
4 NATION.—The term “consciously parallel pricing co-
5 ordination” means a tacit agreement between 2 or
6 more food producers to raise, lower, change, main-
7 tain, or manipulate pricing for the purchase or sale
8 of reasonably interchangeable food products.

9 (4) COORDINATING FUNCTION.—The term “co-
10 ordinating function” means—

11 (A) collecting historical or contempora-
12 neous food product prices or supply levels from
13 2 or more food producers;

14 (B) analyzing or processing of the informa-
15 tion described in subparagraph (A) using a sys-
16 tem, software, or process that uses computa-
17 tion, including by using that information to
18 train an algorithm; and

19 (C) recommending food prices, supply or
20 output, or other commercial term to a food pro-
21 ducer.

22 (5) COORDINATOR.—The term “coordinator”
23 means any person that operates a software or data
24 analytics service that performs a coordinating func-
25 tion for any food producer, including a food pro-

1 ducer performing a coordinating function for their
2 own benefit.

3 (6) FOOD.—The term “food” has the meaning
4 given the term in the 321st section of the Food,
5 Drug and Cosmetic Act (21 U.S.C. 321).

6 (7) FOOD PRODUCER.—The term “food pro-
7 ducer” means any individual, corporation, or entity
8 engaged in the manufacturing, processing, or pro-
9 duction of food products for commercial distribution.

10 (8) PERSON.—The term “person” has the
11 meaning given the term in the 1st section of the
12 Clayton Act (15 U.S.C. 12).

13 (9) PRE-DISPUTE ARBITRATION AGREEMENT.—
14 The term “pre-dispute arbitration agreement”
15 means an agreement between 2 or more parties to
16 arbitrate a dispute between the parties that is made
17 before any dispute has arisen.

18 (10) PRE-DISPUTE JOINT ACTION WAIVER.—
19 The term “pre-dispute joint action waiver” means
20 an agreement between 2 or more parties, which may
21 be part of a pre-dispute arbitration agreement,
22 that—

23 (A) would prohibit or waive the right of a
24 party to participate in a joint, class, or collec-
25 tive action in a judicial, arbitral, administrative,

1 or other forum relating to a dispute between
2 parties; and

3 (B) is made before any dispute has arisen.

4 (11) STATE.—The term “State” means any of
5 the several States, the District of Columbia, the
6 Commonwealth of Puerto Rico, or any territory or
7 possession of the United States.

8 **SEC. 3. UNLAWFUL CONDUCT.**

9 (a) IN GENERAL.—

10 (1) CONTRACT OR CONSPIRACY IN RESTRAINT
11 OF TRADE.—It is unlawful for a food producer, in
12 or affecting commerce, or any agent or subcon-
13 tractor thereof, to subscribe to, contract with, or
14 otherwise exchange anything of value or use in re-
15 turn for the services of a coordinator, and such ac-
16 tion shall be deemed to be a per se violation of the
17 Sherman Act (15 U.S.C. 1 et seq.).

18 (2) FACILITATION.—It is unlawful for a coordi-
19 nator, in or affecting commerce, to facilitate an
20 agreement among food producers to not compete
21 with respect to food prices, supply or output, or
22 other commercial term, including by performing a
23 coordinating function.

24 **SEC. 4. ENFORCEMENT.**

25 (a) ENFORCEMENT.—

1 (1) IN GENERAL.—

2 (A) FEDERAL TRADE COMMISSION.—The
3 Commission shall enforce this Act in the same
4 manner, by the same means, and with the same
5 jurisdiction, powers, and duties as though all
6 applicable terms of the Federal Trade Commis-
7 sion Act (15 U.S.C. 41 et seq.) were incor-
8 porated into and made a part of this Act.

9 (B) ATTORNEY GENERAL.—The Attorney
10 General shall enforce this Act in the same man-
11 ner, by the same means, and with the same ju-
12 risdiction, powers, and duties as though all ap-
13 plicable terms of the Sherman Act (15 U.S.C.
14 1 et seq.), Clayton Act (15 U.S.C. 12 et seq.),
15 and Antitrust Civil Process Act (15 U.S.C.
16 1311 et seq.) were incorporated into and made
17 a part of this Act.

18 (C) STATE ATTORNEYS GENERAL.—Any
19 attorney general of a State shall enforce this
20 Act in the same manner, by the same means,
21 and with the same jurisdiction, powers, and du-
22 ties as though all applicable terms of the Sher-
23 man Act (15 U.S.C. 1 et seq.) and the Clayton
24 Act (15 U.S.C. 12 et seq.) were incorporated
25 into and made a part of this Act.

1 (2) UNFAIR METHODS OF COMPETITION.—A
2 violation of this Act shall also constitute an unfair
3 method of competition under section 5 of the Fed-
4 eral Trade Commission Act (15 U.S.C. 45).

5 (3) INDEPENDENT LITIGATION AUTHORITY.—If
6 the Commission has reason to believe that a person
7 violated this Act, the Commission may commence a
8 civil action, in its own name by any of its attorneys
9 designated by it for such purpose, to recover a civil
10 penalty and seek other appropriate relief in any dis-
11 trict court of the United States.

12 (4) STANDARDS OF PLEADING.—In a civil ac-
13 tion under this subsection, a complaint—

14 (A) plausibly pleads a violation of section
15 1 or 3(a) of the Sherman Act (15 U.S.C. 1,
16 3(a)) if the complaint contains factual allega-
17 tions, including allegations of consciously par-
18 allel pricing coordination, demonstrating that
19 the existence of a contract, or conspiracy in re-
20 straint of trade or commerce is among the
21 realm of plausible possibilities; and

22 (B) need not allege facts tending to ex-
23 clude the possibility of independent action.

24 (b) CIVIL ACTIONS BY INJURED PERSONS.—

1 (1) CIVIL ACTION AUTHORIZED.—Any person
2 who is aggrieved by a violation of this Act may bring
3 a civil action in an appropriate district court of the
4 United States, without respect to the amount in con-
5 troversy, to recover an amount described in para-
6 graph (2).

7 (2) AWARD AMOUNT.—

8 (A) IN GENERAL.—The court shall award
9 to the plaintiff threefold the damages sustained
10 by the plaintiff and the reasonable cost of liti-
11 gation, including a reasonable attorney fee.

12 (B) INTEREST ON DAMAGES.—Pursuant to
13 a motion by the plaintiff promptly made, the
14 court may award simple interest on actual dam-
15 ages sustained by the plaintiff for the period
16 beginning on the date of service of the pleading
17 of the plaintiff setting forth a claim under this
18 Act and ending on the date of judgment, or for
19 any shorter period therein.

20 (3) INVALIDITY OF PRE-DISPUTE ARBITRATION
21 AGREEMENTS AND PRE-DISPUTE JOINT ACTION
22 WAIVERS.—At the election of the plaintiff in an ac-
23 tion authorized under paragraph (1), a pre-dispute
24 arbitration agreement or pre-dispute joint action

1 waiver relating to a violation of this Act shall be in-
2 valid or unenforceable.

3 **SEC. 5. RELATIONSHIP TO FEDERAL ANTITRUST LAWS.**

4 Nothing in this Act, or any amendment made by this
5 Act, shall be construed to modify, impair, or supersede
6 the operation of any of the antitrust laws

7 **SEC. 6. RELATIONSHIP TO STATE AND LOCAL LAWS.**

8 Nothing in this Act may be construed to preempt any
9 State, Tribal, city, or local law, regulation, or ordinance
10 that supplements this Act.

11 **SEC. 7. SEVERABILITY.**

12 If any provision of this Act, or the application of such
13 a provision to any person or circumstance, is held to be
14 unconstitutional, the remaining provisions of this Act, and
15 the application of such provisions to any person or cir-
16 cumstance shall not be affected thereby.

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