Comments of the Consumer Federation of America and the Center for Economic Justice to the

NAIC Auto Insurance Working Group

Regarding the August 10, 2018 Draft "Report" Outline

September 1, 2018

Since 2012, the Auto Study Group and, now, the Auto Insurance Working Group, of the NAIC has produced no useful information to inform policymakers or the public on the working group's charge to study affordability of state-required auto insurance. As a consequence, instead of leading the way on an analysis of auto insurance costs affecting tens of millions of consumers, the NAIC deferred to the Federal Insurance Office ("FIO"), thereby undermining the reputation of state-based regulation and justifying Congressional action to create the FIO and assign the FIO with the responsibility, among other things, to monitor the availability and affordability of insurance in traditional underserved areas.

After abdicating responsibility to FIO and after five years of inaction on necessary data collection, the Auto Insurance WG finally began a process to develop a proper data collection tool through an open process that led to a solid draft data collection approach. As the working group prepared to adopt this approach, the industry came forth with a "gift" of their hand-picked data, unsuitable for a substantive analysis of availability and affordability and designed to only allow proof of industry talking points. Inexplicably, the working group dropped the regulator-developed data collection in place of the industry proffer in a hurried decision that ensured any subsequent analysis of availability and affordability based on these data would be fatally flawed.[1]

Now, one year later and with no transparency in the interim, the proposed "report" presented in an outline dated August 10, 2018 proves the concerns we have expressed over the years. The proposed "report" serves no purpose other than that intended by the insurance industry when it dictated that only data hand-picked by industry itself would be used in the study. While NAIC staff has tried valiantly to work with the detritus produced by industry, the "report" is fatally flawed for many reasons, including, but not limited to:

1 Attached is our September 5, 2017 letter to NAIC President Ted Nickel discussing the bad process and bad result.

- **No individual company experience.** As we have explained in prior written comments, no meaningful conclusions about availability or affordability of auto insurance can be drawn from industry aggregate data. Such industry aggregate data show only aggregate results and not the operation of the market within the geographic area. By refusing to provide individual company experience – to which, for some inexplicable reason, regulators have acquiesced – industry has prevented any analysis of the dynamics within the geographic area, including whether the industry aggregates represent common individual insurer experience or averages of extremes around the average. The aggregate experience doesn't allow analysis of how significant segments of the population may dramatically differ from the aggregate average and represent availability or affordability issues for that segment of the population.

- **Omission of key indicators of affordability.** The "report" doesn't mention or include key indicators of auto insurance cost burden for consumers: –

    - The "report" fails to include lender-placed insurance activity and fines, violations, penalties and incarcerations related to financial responsibility enforcement. Auto lender-placed insurance is to physical damage coverage as residual market applications are to liability coverage. LPI placements exceed residual market applications. By failing to include auto LPI data – as well as data on the costs and burdens on low- and moderate-income consumers of auto loans – the "report" leaves out a huge indicator of availability and affordability.
    - The "report" fails to include the penalties suffered by consumers unable to afford insurance. These penalties – ranging from fines to violations to losing civil rights to incarceration – are as much a part of the affordability analysis as the premium quote received the consumers.
    - The report omits information on premium finance of auto insurance as well as experience data broken out by standard versus non-standard writers. Coupled with the absence of individual company data, the lack of experience broken out by standard versus non-standard insurer eliminates the possibility of examining the market structure in a particular geographic area, including which communities have access to standard and preferred insurance and which communities are primarily served by non-standard carriers utilizing teaser premiums loaded with policy fees and high-cost premium finance.

- **No meaningful ability to validate the data for accuracy or completeness.** Given the industry's clearly-stated intent that the "report" validate their practices, the massive conflicts of interest for the industry organizations providing the data, and the ability of the industry to alter the actual experience prior to submitting the data submitted to the NAIC, any such data requires heightened scrutiny and evaluation for accuracy and completeness. But, such evaluation is, of course, impossible by design of the industry because the absence of individual company experience makes such validation impossible. Regulators' abject refusal to even challenge industry, let alone require reporting of individual company experience is graphic evidence of the wisdom of Congress to authorize the FIO to examine availability and affordability issues that state regulators refuse to do.

- **No public release of data by the NAIC**. – The data collected by the NAIC are industry-aggregate data that would be clearly public information if reported to any individual state. The data reported by the industry to the NAIC are the same type of industry-aggregate data reported by the statistical agents/advisory organizations on an annual basis to most state insurance regulators. The statistical agents – *agents of the regulators designated as such by the regulators* – refused to provide the individual company data necessary for the analysis. Despite the clearly public nature of the industry-aggregate data – *there can be no insurer claim of trade secret for industry-aggregate data* – the NAIC has refused to publish the data for interested parties to review and analyze. By providing the data to the NAIC instead of to the states, somehow clearly public information has, inappropriately, become confidential information because the NAIC – despite its quasi-governmental role – is not subject to any state or federal public information law. The NAIC's refusal to make public the data submitted by industry adds fuel to the complaint that the NAIC is unaccountable to legislators and consumers who are impacted by NAIC actions.

  We take particular exception to the comments of PCIAA[2] offered to justify this unaccountability – and are dismayed by working group members' failure to rebuke the PCIAA comments. PCIAA's assertions – that only state regulators have the expertise to evaluate and present data to the public – are both hugely hypocritical and reprehensible. It is hypocritical because PCIAA and other trades routinely hire non-regulators to produce reports analyzing insurance data. But, the true scorn is warranted by the assertion that members of the public – including non-industry actuaries and economists in academia or public interest – are incapable of understanding or "correctly" analyzing the data. PCIAA apparently does not believe in public information or accountability of government officials to the public – a position inconsistent with the standards of American democracy.

- **No data on key transactions.** The "report" only includes aggregated information on policies issued in the form of earned exposures. The crucial transactions that generate a single earned exposure are missing – policies written by term of coverage and policies lapsed by term of lapse as well as gross written premium and net written premium. If the goal is to produce an actuarial analysis of rates, earned exposures are necessary. If the goal is to analyze availability and affordability, earned exposure has limited utility and data on policies written, cancelled and lapsed and gross and net written premium is crucial.

[2] According to the draft minutes of the meeting, "He (*David Snyder of PCIAA)* said insurance departments have unique expertise to put data within the structure of the laws that departments are required to carry out and then explain it to the public. He does not agree all of the data is public data. . . .Mr. Snyder said the state insurance departments have unique legal authority and expertise to represent the public and apply that to the data. He said raw data should not be dumped without the collective expertise of state insurance regulators. He said a framework should be put around the data, such as explaining the excessive, inadequate and unfairly discriminatory standard.

Essential to any analysis of availability and affordability is an examination of the prices consumers face in the market – particularly the prices that consumers cannot afford. Had the members of the auto study group been serious about data collection when the group first started, regulators would now have years of data on applications and quotes in addition to data on policies issued.

- **Old data.** In addition to the glaring inadequacies and gaping holes in the data presented by industry, the data are old. As we approach the end of the 2018, the NAIC "report" is utilizing data from 2013 through 2015. Once again, industry is dictating the study by presenting only the data they want to be analyzed. And the data they are presenting are data designed for ratemaking, not for market monitoring. While there is some justification for some time lag between the experience periods and reporting of ratemaking data to allow claims to develop, data needs for analyzing availability and affordability require no such lag. Every insurance company can report gross written, net written and earned premiums with a few weeks after the end of a calendar quarter, as well as gross, net and earned exposures. Yet, instead of working with multiple years of quarterly data through at least the first quarter of 2018, the "report" is relying on 2013 to 2015 data unsuited for the purpose of the study. It is truly puzzling why regulators believe the wrong data (see below) from 2015 is useful for evaluating availability and affordability of auto insurance in the second half of 2018. Once again, the NAIC's failures are the best evidence for a continued strong Federal Insurance Office effort on availability and affordability.

- **Wrong data.** The various indicators of cost in the "report" are flawed because they are all based on earned premiums and earned exposures. Again, these measures are useful for ratemaking, but inappropriate for analyzing availability (policies actually written, cancelled and lapsed) and affordability (actual costs faced by consumers). All the measures of cost should be based on gross written premium to gross written policies and net written premium to net written policies.

  In addition, paid claims data should be presented to help assess the reasonableness of the incurred claim data generated by industry.

- **Biased metrics.** The "theory/hypothesis" section of the "report," is a laundry list of industry explanations for high premiums in low-income and minority communities. Missing are the variety of socio-economic pricing factors used by industry that have a clearly disproportionate impact on consumers in low-income and minority communities.[3] The selection of data and metrics are designed to support the industry talking points, not to elicit new and actionable information on availability and affordability of auto insurance costs for consumers.

[3] CFA's series of studies on the plight of low- and moderate-income people affording state-required auto insurance and the impact on price of auto insurance of socio-economic, non-risk-related rating factors are shown in the attached document (which has links to each study and a thumbnail description of each study).

We attach our prior comments regarding problems with the data and methodology to complete our comments as well as the letter we sent to President Nickel and the document listing prior CFA studies on affordability of auto insurance.

In conclusion, we urge the working group and the NAIC to rethink and reorient your efforts on evaluating auto insurance availability and affordability issues. The current effort will not only fail to shed light on important availability and affordability issues, but it will grievously tarnish the reputation of the NAIC. We know you can do better.

September 5, 2017

Commissioner Ted Nickel
President, National Association of Insurance Commissioners

By electronic mail

Re: Auto Study Group "Data Collection" – Flawed Process Leads to Flawed Outcomes

Dear Commissioner Nickel,

We write to express our dismay concerning the action of the Auto Insurance (C/D) Working Group ("Auto WG") at the Summer National Meeting in Philadelphia and to ask that the decision and action be revisited with appropriate time for comment and deliberation.

The Auto WG adopted a data collection/affordability analysis proposal from industry that was radically different from a regulator-developed proposal that had been exposed for several months. The industry proposal was first posted on August 2, 2017, just four days before the Auto WG adopted it – after giving non-industry stakeholders four minutes to comment. The flawed process resulted in a flawed outcome and raises troubling questions about the role and authority of statistical agents.

In addition to asking that the NAIC direct the Auto WG to revisit the action by exposing the industry proposal for comment accompanied by sufficient opportunity for stakeholders to present views to the Auto WG, we also ask the NAIC to examine why statistical agents appointed or licensed by regulators to act as the regulator's agent for data collection refuse to provide regulators with the data that regulators have required insurers to report. The statistical agents' refusal to provide individual insurer data to regulators is outrageous and needs to be addressed. We suggest that the states consider replacing the current statistical agents, who have failed to put regulators as a top priority, with the NAIC as the statistical agent for personal lines property and casualty insurance – just as the NAIC replaced a private statistical agent with the NAIC as a statistical agent for life insurance, annuities and long-term care as part of the principle-based reserving effort.

The remainder of the letter describes in detail the flawed process used by the Auto WG – adopting the industry-proposed data collection after a few days' notice with almost no opportunity for non-industry stakeholders to comment – and explains why the industry data proposal is fatally flawed for purposes of an objective and meaningful analysis of auto insurance affordability and availability.

What Happened? A History of the Auto WG and Data Collection for Analyzing Affordability

Since its creation in 2012 to examine issues of affordability and availability of auto insurance[1], the Auto Study Group has considered a request for data from insurers to perform an objective and meaningful study of auto insurance affordability. The issue became more urgent when the Federal Insurance Office ("FIO") adopted an affordability methodology coupled with FIO collection of data from insurers because the FIO affordability index failed to provide information useful for analyzing causes of affordability problems and because state insurance regulators should have been leading the way on an issue of great interest to a number of stakeholders, including Congress.

After years of discussion on data collection for an affordability study (with consistent industry objection to either data collection or a study of affordability), the Auto WG decided at the Summer 2016 National Meeting to draft a proposal for data collection for a study of affordability and availability.[2] A proposal drafted by regulators from California, Missouri, Oklahoma and Pennsylvania dated December 1, 2016 was exposed for comment at the December 10, 2016 Auto WG meeting. Numerous comments were submitted by stakeholders by January 31, 2017. The proposal and comments were discussed at the Spring 2017 National Meeting and the WG adopted a motion to move forward with a data call. The data collection proposal was discussed during a May 2017 WG conference call with a decision to move forward.[3]

A (slightly) revised data call was posted for comment in June 2017 with comments due by July 31, 2017. The proposal was also discussed during a July 17, 2017 Auto WG conference call. Several stakeholders submitted comments. Consumers Union, the publisher *of Consumer Reports*, Consumer Federation of America, and Center for Economic Justice supported the draft, with some suggestions for improving the data collected.[4]

At the last minute, the insurance industry, which for years fought any real data collection by the NAIC on these matters, proposed a radically-different data collection approach. The industry proposal was first made available to non-industry stakeholders on August 2, 2017 – four days before the August 6, 2017 Auto WG meeting in Philadelphia.

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[1] The 2012 charges added: Appoint an Auto Insurance (C/D) Working Group, a joint working group of the Property and Casualty Insurance (C) Committee and the Market Regulation and Consumer Affairs (D) Committee, to review issues relating to low-income households and the auto insurance marketplace and to make recommendations as may be appropriate.

[2] Minutes of the August 26, 2016 Auto WG meeting state: Commissioner Doak made a motion, seconded by Mr. Angell, to ask a group of states to share information and create a proposal concerning data needed to study affordability and availability issues. The motion passed

[3] The meeting minutes state, "Commissioner Kerr said the small group of states will continue to refine data elements, create definitions and identify any state -specific differences that would be needed. He said a draft data call should be completed by the week of June 5. Commissioner Kerr said the draft data call would be shared with all parties for feedback."

[4] The letter can be seen at http://consumerfed.org/wp-content/uploads/2017/08/cfa-cej-cu-letter-naic-auto-working-group-data-call.pdf

The approach was forwarded to the NAIC by PCI, who wrote, "Assuming a project is to go forward, PCI supports the statistical agents' alternative to enable regulators to achieve the Working Group's goals quickly and efficiently, working with the statistical reporting agencies (ISS, ISO, etc.) to report aggregate data on auto insurance premiums, claims and losses, limits, and deductibles by zip code (where available). The low-burden/high-information alternative would directly answer the questions under the charge and applicable law. We incorporate by reference the statistical agent proposal and respectfully ask the NAIC to accept it, if this project moves forward."

Another trade group of insurers, NAMIC, also supported the approach sprung on the regulators, saying, "Fortunately, a consortium of statistical reporting agents has developed a plan for collecting and reporting aggregate industry data in a manner that would not significantly burden insurers while not running afoul of state confidentiality laws – and it could be completed, according to the statistical agents, in just three months."

The first time that non-industry stakeholders learned of the specific industry proposal – including proposed data elements and refusal to provide individual insurer data – was when the comments to the Auto Study Group were first posted on August 2, 2017. Four (4) days later, at its Philadelphia meeting, the Auto WG adopted the industry proposal. At the Auto Study Group meeting, CEJ (the only non-industry stakeholder to speak) was given four (4) minutes to comment on the industry proposal. After years of discussion, months of exposure of a completely different proposal, the Auto Study Group adopted a radically different data collection proposal with non-industry stakeholders having barely a few days to review and a handful of minutes to comment. Clearly, this was a flawed process and, predictably, it resulted in a flawed outcome – the provision of only those data hand-picked by industry that fails to allow a meaningful analysis of auto insurance affordability.

Flawed Data, Unusable Analysis

The data industry is willing to give regulators are unsuitable for an objective and meaningful analysis of auto insurance affordability and availability for several reasons.

- The data are hand-picked by industry to support industry talking points, not to allow an objective analysis.
- The data won't allow a meaningful or substantive analysis of affordability and availability because of limited data elements developed for ratemaking and not for market analysis and because of reliance on industry aggregate data instead of individual company data.
- The data can't be verified as correct or complete because of statistical agents' refusal to provide individual insurer data.

Statistical Agents Conflict of Interest

The statistical agents have unmanageable conflicts of interest. One statistical agent – ISS – is a wholly-owned subsidiary of PCI – the same trade association of insurers that has consistently opposed an affordability analysis. Two other of the statistical agents – NISS and AAIS – are managed by a board of directors comprised of the insurance company members who use NISS and AAIS as statistical agents. And ISO, the fourth statistical agent – is part of Verisk, a publicly-traded insurance services company whose $2 billion in annual revenues comes predominantly from insurers.

We have no confidence that ISS will provide accurate data if it shows redlining given that ISS is an arm of the trade association that fought against insurer accountability for their pricing practices for decades. Or that ISO, which is dependent on industry money, will put forth data documenting consumer stakeholder concerns, should the data so indicate. Despite the massive conflicts of interest of the statistical agents, regulators and non-industry stakeholders have no ability to verify the accuracy or completeness of the data provided by the conflicted statistical agents.

Data Can't Be Verified for Accuracy or Completeness

The data collected and used for this industry-sponsored effort will be data that the insurers want to supply; they are not under any requirement to supply all the data. The statistical agents have already indicated that some unidentified insurers may be excluded from the data, if the data for the period are not complete or otherwise don't pass some undisclosed quality checks, and adjustments will be made to the data. The statistical agents often massage or "smooth" data prior to submission to regulators; we can only expect the same with this data set.

The data can't be verified as accurate or complete because of the statistical agents' refusal to provide individual insurer data. Absent individual insurer data, there is no ability to identify whether data has been massaged or omitted. Some insurers may be excluded from the database completely, in certain states or even in certain ZIP Codes. Reviewers will not be able to determine the impact of such data manipulations.

Individual Insurer Data Is Essential and Was Always Contemplated

A meaningful and robust analysis of auto insurance affordability and availability requires the collection and analysis of individual insurance company experience. The basic purpose of the data collection and study effort is to determine whether or not there are affordability and availability problems faced by certain groups of consumers. An equally important purpose is to reveal whether individual company's practices tend to harm lower-income and minority communities. Industry-aggregate data – even at the ZIP Code level – cannot make either of these determinations, and even more so if some undisclosed amount of data are to be removed, adjusted, or smoothed.

As an example of the importance of individual insurer data, consider the following: research undertaken by CFA shows that some of the major insurers refuse to quote in many ZIP Codes for people with perfectly clean driving records who have socio-economic characteristics that indicate that they might be lower-income. Other insurers do not do this. Obviously, not quoting for good drivers diminishes competition for those drivers and may drive auto insurance prices to unaffordable levels. Aggregate data would mask this sort of problem and leave regulators without any indication of what might be driving unaffordability. Further, if an insurer is not quoting in certain ways, it could amount to a new form of redlining that regulators should be investigating. Additionally, patterns of sharp price increases in certain classes by an insurer might reveal discriminatory pricing against protected classes such as minorities or the poor.

The discussion of data collection for analyzing availability and affordability has always contemplated individual company reporting because it has been widely-agreed and understood that individual reporting of data is essential to ensure data accuracy and data quality and to provide the level of data detail essential to produce an analysis that answers key policy questions instead of pushing the issues down the road

Data Elements for Ratemaking Are Inadequate for Analyzing Affordability

Unlike the regulator-drafted proposal, the industry proposal won't allow an objective and meaningful analysis of auto insurance affordability and availability – for many reasons.

- The absence of individual insurer data prevents necessary analysis of availability – which insurers are writing in which ZIP Codes at what prices? Are certain ZIP Codes served primarily by non-standard insurers only?

- The absence of data unavailable to statistical agents prevents meaningful analysis. Unlike the regulator-drafted proposal that provided comprehensive data collection, the statistical agents will only provide the data they currently have – in just 20 states, leaving 30 states where ZIP Code data will only be available from insurers that choose to provide it.

- Unlike the regulator-drafted proposal, with the industry proposal, there is no way to relate average premiums to amount of insurance ($1,400 for basic limits is different than $1,400 for 250/500). According to the statistical agent approach, "Liability limit detail is collected by several of the statistical agents and the distribution of limits provided by those could be used to estimate the overall limit distribution by ZIP Code as well." By leaving this to estimation, the calculation can be manipulated to produce desired results.

- Unlike the regulator-drafted proposal, the industry data will be devoid of information on sales quotes versus actual sales, policies canceled for non-payment of premium or other information about actual market outcomes for consumers.

- Unlike the regulator-drafted proposal, the industry data provide no paid losses or paid loss development, preventing a good test of both incurred losses and incurred loss development. Absent these paid claims data, there is no ability to determine if claims handling varies among ZIP codes in ways that might, for example, diminish the value of an insurance policy in one community relative to its value in another.

- Unlike the regulator-drafted proposal, the industry data provides no breakout of closed claims between claims closed with and claims closed without payment, further making analysis of claims practices by ZIP Code impossible.

The Provision of Data Limited to Proving Industry Talking Points Is Not Objective or Useful for Regulators and Stakeholders to Examine and Analyze Auto Insurance Affordability and Availability.

The insurance industry has had the opportunity to provide this data for five years, since the creating of the Auto Study Group in 2012. It was only when regulators were poised to move ahead with data collection for an objective and meaningful study did the industry "alternative" appear.

This is an industry study designed to affirm industry talking points. The NAIC should not be legitimizing an industry-controlled study as something meeting regulator needs or being overseen by regulators when neither is the case.

<u>Arguments by Some Regulators in Support of Industry Proposal Show Flaws of the WG Action</u>

Regulators from Oregon and Mississippi spoke in favor of the industry proposal, but their comments instead revealed the flaws of the Auto WG action. Oregon argued that the industry proposal was a first step and that a state could dig deeper if a state wanted to. But, the industry proposal provides nothing new for regulators – simply the data regulators have always had access to and which statistical agents have routinely provided to regulators. The industry-proposed data won't allow a deeper dive because the data prevent the analysis and identification of actual affordability or availability issues.

In defending the industry-proposal at the Market Regulation and Property/Casualty Committees meeting in Philadelphia, Mississippi acknowledged a problem with the industry proposal – no distinction between standard and non-standard experience. Commissioner Chaney suggested he would get the industry to provide that breakout, but no revision to the industry proposal was offered or made. The fact that problems with the industry proposal were being discussed just hours after the Auto WG action is vivid evidence of the rushed and flawed process to adopt the industry proposal.

Need for New Statistical Agents Responsive to Regulators

The 2017 NAIC budget provided funds for the NAIC to develop the capability to act as a statistical agent for the life insurance, annuity and long-term care data need for implementing principles-based reserving – despite the fact that a private statistical agent was in place and despite the fact that MIB had never refused to provide regulators with requested data. The budget document explained the purpose

> This initiative enables the NAIC to quickly respond to regulatory data collection needs, thereby improving state-based regulation and ensuring the data is collected in a consistent manner. It also avoids data collection efforts by private entities that may have conflicted interests or do not consider the goals of improving effectiveness and efficiency of regulatory oversight process a priority.

This statement describes exactly the situation with the private property/casualty statistical agents. It is outrageous that these statistical agents – agents who purportedly collect data on behalf of regulators – refuse to provide regulators with the data that regulators have authorized them to collect on behalf of the regulators.

The designation of the NAIC as the statistical agent for life/annuity/long-term care insurance data was intended to prevent the exact problem that regulators now actually encounter with ISO, NISS, ISS, and AAIS. We suggest that state insurance regulators consider replacing the current statistical agents, who have failed to put regulators as a top priority, with the NAIC as the statistical agent for personal lines property and casualty insurance – just as the NAIC replaced a private statistical agent with the NAIC as a statistical agent for life insurance, annuities and long-term care as part of the principle-based reserving effort.

Sincerely,

Chuck Bell	J. Robert Hunter	Birny Birnbaum
Consumers Union	Consumer Federation of America	Center for Economic Justice

cc
Julie McPeak, President-Elect
Eric Cioppa, Vice President
Ray Farmer, Secretary-Treasury
Steve Robertson, Chair, Market Regulation (D) Committee
John Doak, Chair, Property Casualty (C) Committee
David Altmaier, Vice-Chair, Property Casualty, (C) Committee
Mike Chaney, Mississippi Insurance Commissioner
Dave Jones, California Insurance Commissioner
Chlora-Lindley-Myers, Missouri Insurance Director
Jessica Altmann, Pennsylvania Acting Insurance Commissioner
Mike Consedine, CEO, NAIC
Aaron Brandenburg
Tim Mullen
Eric Nordman

January 17, 2018

Commissioner Allen Kerr
Arkansas Insurance Department
1200 West Third Street
Little Rock, AR 72201-1904

Re: Auto Insurance (C/D) Working Group Auto Insurance Data from Statistical Agents

Dear Chairman Kerr and Members of the Working Group,

We, the undersigned consumer and advocacy groups, call on the Auto Insurance (C/D) Working Group (AWG) to ensure complete transparency with respect to the auto insurance data being provided by statistical agents as part of the AWG's ongoing affordability research. As you know, consumer groups vigorously disagreed with the last-minute decision to supplant the publicly-vetted data gathering proposal with the industry-preferred analysis approved in August. While we call for transparency as a minimum standard for the data being supplied by the stat agents, we continue to believe that the AWG should demand the more robust data originally presented to the Group.

We also wish to thank you for promising to include a vote at the next Working Group meeting to decide certain issues related to transparency, namely, 1) whether auto insurance data will be broken out by standard vs. non-standard insurers, and 2) if the raw data as reported to the NAIC by the statistical agents will be made available to interested parties for analysis. We urge the AWG to vote affirmatively in both instances.

Breaking out Data by Standard vs. Non-standard Insurers

We ask the AWG to require the stat agents to break out auto insurance data by standard vs. non-standard insurers based on the A. M. Best list of such insurers. While there may not be a perfect list of non-standard insurers readily available, the A. M. Best list is reasonably approximate, stat agents have indicated that it is easy to breakout the data this way, and it will be useful in identifying possible market deficiencies geographically, a key to determining affordability for low- and middle-income drivers. If, after reviewing the data, it is determined that the breakout is not useful or produces unreasonable results, the data can be recombined for further analysis.

Making Raw Data Available to Interested Parties

Most importantly, we strongly urge the AWG to make the raw auto insurance data reported to the NAIC by stat agents available to all interested parties for analysis and comment. Since the data will be aggregated so that all insurers are combined and even the data from individual stat agents will be combined, there is no possibility of the data exposing any individual insured to privacy concerns or any individual insurer to trade secret concerns. In other words, there is no good reason for the NAIC to hide the data from researchers/interested parties.

But there are excellent reasons for the NAIC to make these data available, among which are:

- The perspectives of different researchers are different and the analysis they undertake will be guided by their differing viewpoints. The industry, for instance, is certain that there is no affordability problem and consumer groups are certain that there is. These polar different points of view should result in very interesting analyses of the data, so long as all parties have an equal opportunity to conduct their analyses.

- A primary concern has been that the data collection process has been biased and constructed to serve industry interests rather than the public interest in auto insurance affordability (as discussed in more detail in the Appendix discussing Consumer Federation of America's concerns). This drives the view that the NAIC is unlikely to get useful results with the stat agents and industry controlling the data used and, since the data will be aggregated, there will be no way to compare insurers to see if the data make sense. Hiding the limited data that does come in to NAIC will further aggravate these concerns, while release of these data could mitigate the concerns at least somewhat.

Making the data available to all will allow for an open conversation between regulators, advocates, and industry about the utility, meaning, and implications of the data. Put differently, if the NAIC does not make this research project entirely transparent, there is no way for the public to have faith that any analyses or conclusions drawn from the data are reliable.

Please Vote with Low- and Middle-Income Drivers and all Americans who buy auto insurance or would but for its unaffordability

We strongly urge the AWG to 1) break out auto insurance data by standard vs. non-standard insurers, and 2) make raw data as reported to the NAIC by the stat agents available to interested parties for analysis. Both actions will assist in the analysis of the data, and, in the long run, assist regulators, policymakers, advocates, and industry make more informed decisions about addressing concerns of affordability in the auto insurance market. For working families across the country who rely on auto transportation to access work and education opportunities, it is incumbent on the NAIC to develop a meaningful response to the issue of auto insurance affordability. As an association of elected and appointed public officials, it is also critical that your response is developed in the most transparent manner possible.

Thank you for considering our views.

Sincerely,

Consumer Federation of America
California Reinvestment Coalition
Center for Economic Justice
Consumer Action
Consumer Federation of California
Consumers Union
Florida Alliance for Consumer Protection
Florida Consumer Action Network
Georgia Watch
Maryland Consumer Rights Coalition
Massachusetts Consumers Council
New Jersey Citizen Action
NYPIRG
Policy Matters Ohio

Reinvestment Partners
Tennessee Citizen Action
Texas Appleseed
THE ONE LESS FOUNDATION
United Policyholders
U.S. PIRG

APPENDIX

Consumer Federation of America's concerns regarding the Auto Insurance Data Call

In August 2017, the AWG appeared close to adopting a regulator-developed data call that had taken several years to craft and that would produce results that all parties, including consumer advocates, could have accepted as reliable and unbiased. However, the industry suddenly, at the eleventh hour, offered a different set of data as an alternative to the approach that state regulators had developed. But the industry's data, which it could have provided any time over the past six years of AWG discussions, can't be verified for accuracy, limits the ability for detailed analysis, and appears to be designed to support industry talking points. Consumer groups had urged the AWG to ensure the independence of the data collection effort by requiring individual insurer reporting of data specified by regulators. In contrast, the industry proposed that insurer organizations provide aggregate data selected by insurers.

The data that will be received from the Stat agents later this month also suffer from these deficiencies:

- This is no longer a study by insurance regulators, but an industry study – with data handpicked by insurers.

- There is no ability to review the accuracy or completeness of the data because industry will not provide insurer-specific data, only industry aggregate data.

- The data that insurers are willing to provide won't answer key questions – which companies are offering what coverage at what prices in which communities? The original regulator-designed proposal would have begun to answer those questions.

- By providing only industry aggregate data, data quality review and analytic opportunities are lost. For example, unless the AWG votes to collect the data split between standard and non-standard insurers, there is no way to determine if low- and moderate-income communities are predominantly served by high-cost "non-standard" insurers while larger insurers are effectively redlining communities of color.

- The data offered by industry doesn't include any information on true measures of affordability like quotes offered but not taken or policies cancelled because of non-payment of premium.

- The data won't allow a meaningful or substantive analysis of affordability and availability because of limited data elements developed for ratemaking and not for market analysis and because of reliance on industry aggregate data instead of individual company data.

- There is no way to relate average premium to amount of insurance ($1,400 for basic limits is different than $1,400 for $250/$500).

- There is no information on whether consumers are keeping policies or information on cancellations for non-payment of premium.

- There is no meaningful measure of the cost of insurance since the data are limited to earned premium and earned exposures instead of written premium and written exposures.

- Data can't be verified as correct or complete because stat agents refuse to provide individual insurer data making it impossible for advocates to identify when data has been massaged. Because the data providers have significant conflicts of interests – as they are either subsidiaries of trade associations or have boards controlled by insurance company clients– regulators and other stakeholders need access to raw data to verify the accuracy and completeness of the data.

CFA Studies on the Plight of Low- and Moderate-Income Good Drivers in Affording State-Required Auto Insurance

September 2018 Update

Over the past three years, Consumer Federation of America (CFA) has undertaken an effort to research the state of the auto insurance market in America with a particular focus on issues of access and affordability for lower- and middle-income Americans. This research project has included studies using a variety of data sources, including NAIC and ISO reports, company-specific rates by ZIP-code from a third party vendor, and systematic rate testing of individual insurance company websites.

As discussed below, the research addresses several different aspects of auto insurance rates, premiums and the market, but all point to a few key findings:

- The cost of state-mandated basic liability insurance is higher than many lower-income Americans can afford and the number of uninsured citizens in this category is higher than the national average as a result;
- Insurers use a variety of socio-economic rating factors that push premiums up for lower-income Americans despite good driving records; and
- Stronger state consumer protections related to auto insurance rate setting leads to greater access to and more stability in auto insurance markets.

Below is a short description of each of the reports that CFA has issued since 2012. This is followed by a summary of the key recommendations from the reports.

Most Large Auto Insurers Charge 40 and 60-Year-Old Women Higher Rates Than Men, Often More Than $100 Per Year

Consumer Federation of America (2017)

Female motorists with perfect driving records often pay significantly more for auto insurance than male drivers with identical driving records and other characteristics the insurers use to price auto insurance. This finding contrasts with the public perception that men pay more than or the same as women for auto insurance. According to a national public opinion survey, less than a quarter of Americans correctly think that women pay more.

In ten cities studied, CFA found that 40- and 60-year old women with perfect driving records were charged more than men for basic coverage nearly twice as often as men were charged the higher rate. Premiums were lower for 20-year old women than for 20-year old men most of the time; however, GEICO charged young female drivers more than young male drivers in nine of ten cities. These price differences are particularly important, according to CFA, because every state except New Hampshire requires drivers to purchase basic liability insurance coverage.

3 Major Auto Insurers Usually Charge Higher Prices to Good Drivers Previously Insured by Non-Standard Insurers

Consumer Federation of America (2017)
Auto insurance giants Allstate, Farmers, and American Family often charge nine to fifteen percent higher premiums to good drivers previously insured by smaller, "non-standard" insurers than those who had coverage from State Farm or other primary competitors.

Allstate charged 15 percent ($235) more on average to good drivers previously covered by non-standard auto insurers such as Safe Auto Insurance and Equity Insurance Co. than if they had been previously insured by State Farm. Farmers charged nine percent ($260) more on average to customers coming from non-standard companies, including Titan Insurance and Access Insurance Company, than those hailing from State Farm policies. American Family Insurance, the nation's ninth largest auto insurer, charged nine percent ($166) more on average to customers previously with non-standard carriers, such as Direct General and Safeway Insurance.

Major Insurance Companies Raise Premiums After Not-At-Fault Accidents

Consumer Federation of America (2017)
Safe drivers who are in accidents caused by others often see auto insurance rate hikes. The research analyzed premium quotes in 10 cities from five of the nation's largest auto insurers. Among the cities tested, drivers in New York City and Baltimore pay out the most for an accident where the driver did nothing wrong, and customers in Chicago and Kansas City also face average increases of 10 percent or more when another driver crashes into them.

CFA's research over recent years has consistently found that good drivers with certain socio-economic characteristics that suggest lower incomes generally pay more for auto insurance than higher-income drivers with the same driving record. This pattern holds when it comes to penalizing drivers for accidents in which they were not at fault. Higher-income drivers paid $78 more on average after a not-at-fault accident, while moderate-income drivers paid $208 more on average after a not-at-fault accident.

Major Insurers Charge Moderate-Income Customers With Perfect Driving Records More Than High-Income Customers With Recent Accidents

Consumer Federation of America (2016)
Auto insurance prices are often more closely aligned with personal economic characteristics than with drivers' accident and ticket history. Testing premiums offered by the nation's five largest insurers in ten U.S. cities for drivers with different socio-economic characteristics and different driving records, CFA found surprising results, including: upper-income drivers with DUIs often pay less than good drivers of modest means with no accidents or tickets on their driving record; moderate-income drivers with perfect records pay more than upper-income drivers who caused an accident in which someone was injured; progressive and GEICO consistently charge upper-income bad drivers less than moderate-income good drivers; moderate-income good drivers often pay more than upper-income drivers with multiple points on their record.

Major Auto Insurers Raise Rates Based on Economic Factors

Consumer Federation of America (2016)

In most states auto insurance premiums are driven in large measure by economic factors that are unrelated to driving safety, a practice that most Americans consider unfair. Among the most common of the individual economic and socio-economic characteristics used by auto insurers are motorists' level of education, occupation, homeownership status, prior purchase of insurance, and marital status. Because each of these factors are associated with an individual's economic status and because insurers consistently use each factor to push premiums up for drivers of lesser economic means, the combined effect of insurers' use of these factors can result in considerably higher prices for low- and moderate-income Americans, leaving many overburdened by unfairly high premiums and others unable to afford insurance at all.

Good Drivers Pay More for Basic Auto Insurance If They Rent Rather Than Own Their Home

Consumer Federation of America (2016)

Several major auto insurance carriers hike rates on good drivers who rent their home rather than own it. CFA tested the premiums charged by seven large insurers to a good driver in ten cities. For each test we only changed the driver's homeownership status and found that renters were charged seven percent more on average – $112 per year – for a minimum limits policy than insurers charged drivers who own their homes, everything else being equal.

Price of Mandatory Auto Insurance in Predominantly African-American Communities

Consumer Federation of America (2015)

CFA released research comparing auto insurance prices in predominantly African-American Communities with prices paid in predominantly white communities. Nationwide, in communities where more than three quarters of the residents are African American, premiums average 71 percent higher than in those with populations that are less than one quarter African American after adjusting for density and income. In Baltimore, New York, DC, Detroit, Boston and other cities, the disparity of premiums is more than 50 percent between predominantly African American and predominantly white ZIP codes.

New Research Shows That Most Major Auto Insurers Vary Prices Considerably Depending on Marital Status

Consumer Federation of America (2015)

CFA released research on how insurers utilize marital status in their pricing of auto insurance policies. CFA questions the fairness and relation to risk of this pricing by most major insurers, particularly their practice of hiking rates on women whose husbands die by 20% on average, the "widow penalty."

Auto Insurers Fail to Reward Low Mileage Drivers

Consumer Federation of America (2015)
CFA released research showing that large auto insurers frequently fail to reward drivers with low mileage despite a strong relationship between this mileage and insurance claims. The study found that three of the five largest insurers often give low-mileage drivers no break at all. In a 2012 nationwide survey conducted by ORC International for CFA, 61 percent of respondents said that it was fair for auto insurers to use mileage in pricing auto insurance.

Large Auto Insurers Charge High Prices, to a Typical Lower-Income Safe Driver with Car Financing, for Minimal Coverage

Consumer Federation of America (2014)
CFA found that annual auto insurance premiums are especially high for the estimated eight million low- and moderate-income drivers who finance their car purchases. These drivers must purchase the comprehensive and collision coverage required by auto lenders in addition to the liability coverage required by states. In the 15 cities CFA surveyed, annual premium quotes were almost always more than $900 and were usually more than $1,500.

In a related national opinion survey undertaken by ORC International for CFA, nearly four-fifths of respondents (79%) said that a fair annual cost for this auto insurance coverage was less than $750. One-half (50%) said that a fair annual cost was less than $500. Respondents were asked what they thought was a reasonable annual cost for a "30-year old woman with a modest income and ten years driving experience with no accidents or moving violations" for required liability, collision, and comprehensive insurance coverage.

High Price of Mandatory Auto Insurance for Lower Income Households

Consumer Federation of America (2014)
The country's five largest auto insurance companies do not make a basic auto insurance policy available to typical safe drivers for less than $500 per year in over 2,300 urban and suburban ZIP codes including 484, or more than a third, of the nation's lowest-income ZIP codes. In the report, CFA analyzed 81,000 premium quotes for State Farm, Allstate, Farmers, Progressive, GEICO and each of their affiliates in all ZIP codes in 50 large urban regions, which include urban, suburban and adjacent rural communities. CFA also reviewed the premium quotes from an additional 58 insurance companies – comprising a total of 207 insurance affiliates including those of the five largest insurers – which produced similar results.

In 24 of the 50 urban regions, there was *at least one* lower-income ZIP code where annual premiums for a minimum limits policy exceeded $500 from every major insurer. In nine of these 50 areas – Miami/Ft. Lauderdale, Detroit, Minneapolis/St. Paul, Tampa/St. Petersburg, Baltimore, Orlando, Jacksonville, Hartford, and New Orleans – prices exceeded $500 in *all* lower-income ZIP codes.

This report included the finding from a recent national survey that more than three-quarters of Americans (76 percent) believe that a "fair annual cost" for state-mandated insurance for a typical good driver with no accidents and no tickets should be less than $500.

Uninsured Drivers: A Societal Dilemma in Need of a Solution

Consumer Federation of America (2014)

This report found that most uninsured drivers in America have low incomes and cannot afford to purchase the mandatory minimum liability coverage required by their state. The report also revealed that these low-income drivers are increasingly adversely impacted by state and local government actions, including raising liability requirements (driving up premiums), more rigorous enforcement, and stiffer penalties. However, there is little difference in uninsured rates between those states that penalize uninsured drivers harshly and those that do not. The report reviewed penalties for driving without auto insurance in every state and found some of these very harsh penalties for lower-income Americans who truly cannot afford the required insurance:

- Fourteen states allow jail sentences for a first offense.
- Thirty-two states allow for the possibility of license suspension for a first offense.
- Thirty-three states have possible fines of $500 or more for a first offense.

CFA Analysis Shows Auto Insurers Charge Higher Rates to Drivers with Less Education and Lower-Status Jobs

Consumer Federation of America (2013)

Several major auto insurers place a heavy emphasis on their customers' occupation and education when setting prices, forcing lesser educated, blue collar workers with good driving records to pay substantially higher premiums than drivers with more education and higher paying jobs. For example:

- GEICO charges a good driver in Seattle 45% more if she is a factory worker with a high school degree than if she is a plant superintendent with a bachelor degree;
- Progressive charges the factory worker 33% more in Baltimore; and
- Liberty Mutual charges the worker 13% more in Houston.

The reported also highlighted a national survey that found that about two-thirds of Americans believe that it is unfair to use education and occupation when pricing insurance policies.

What Works: A Review of Auto Insurance Rate Regulation in America and How Best Practices Save Billions of Dollars

Consumer Federation of America (2013)

Over the past quarter century, auto insurance expenditures in America have increased by 43 percent on average and by as much as 108 percent. These increases occurred despite substantial gains in automobile safety and the arrival of several new players in the insurance markets. Only in California, where a 1988 ballot initiative transformed oversight of the industry and curtailed some of its most anti-consumer practices, did insurance prices fall during the period, resulting in more than $4 billion in annual savings for California drivers.

This report used NAIC data to assess the impact of different types of insurance market oversight (prior approval, file and use, use and file, flex rating, and deregulation) on rates, industry profitability, and competition. It also provided a detailed analysis of California's experience with the nation's most consumer protective rules governing the auto insurance market.

Largest Auto Insurers Frequently Charge Higher Premiums To Safe Drivers Than To Those Responsible For Accidents

Consumer Federation of America (2013)

CFA analyzed premium quotes from the five largest auto insurers in twelve major cities and found that two-thirds of the time, insurers would charge a working class driver with a 45 day lapse in coverage and a perfect driving record more than companies charged an executive with no lapse in coverage but a recent at-fault accident on their record. In 60% of the tests, the lower-income good driver was charged at least 25% more than the higher-income driver who had caused an accident.

Use of Credit Scores by Auto Insurers Adversely Impacts Low- and Moderate-Income Drivers

Consumer Federation of America (2013)

Holding all other factors constant, the two largest auto insurers, State Farm and Allstate, charge moderate-income drivers with poor credit scores much higher prices than drivers with excellent scores. Using data purchased from a third party vendor of insurance rate information, this report showed that State Farm increased rates for the low credit score driver an average of 127 percent over the high credit score customer and Allstate raised rates by 39 percent, costing State Farm and Allstate customers an average of more than $700 and $350, respectively, based solely on credit scores.

The report also pointed to a recent national survey conducted for CFA that found that, by a greater than two to one ratio, Americans reject insurer use of credit scores in their pricing of auto insurance policies.

Auto Insurers Charge High and Variable Rate for Minimum Coverage to Good Drivers from Moderate-Income Areas

Consumer Federation of America (2012)

This report used extensive website testing to show that good drivers — those with no accidents or moving violations — who live in moderate-income areas in 15 cities were being quoted high auto insurance rates by major insurers for the minimum liability coverage required by those states. Over half (56%) of the rate quotes to two typical moderate-income drivers were over $1000, and nearly one-third of the quotes (32%) exceeded $1500.

The report also presents findings from a national survey that shows that lower-income families report knowing people who drive without insurance at a much higher rate than higher-income drivers. Further, nearly 80 percent of drivers agreed that "they [the uninsured drivers] do so because they need a car but can't afford the insurance."

Lower-income Households and the Auto Insurance Marketplace: Challenges and Opportunities

Consumer Federation of America (2012)

Access to an automobile plays a critical role in creating economic opportunities for lower-income Americans and the affordability of auto insurance plays a key role in this access. This report provides an overview of the auto insurance market with a detailed discussion of low- and moderate-income (LMI) households' participation in the auto insurance market. The report summarizes pricing information collected by CFA as well as data related to availability, residual markets and uninsured motorists.

At the heart of this report, which was the first in the series of reports outlined above, is the finding that for millions of lower-income Americans auto insurance is unaffordable and inaccessible despite their unblemished driving records. High priced auto insurance, which often leads LMI drivers to choose between giving up their cars or driving uninsured, creates serious economic hardships, and the issue must be addressed by policymakers and regulators. The report concludes with a summary of the issues, obstacles and needs facing LMI customers and policy suggestions for addressing them.

Comments of

Consumers Union
Consumer Federation of America and
Center for Economic Justice

to the NAIC Auto Insurance (C/D) Working Group

Regarding Proposed Data Call for Analysis of Affordability and Availability

July 31, 2017

The undersigned write in support of the proposed data collection for purposes of analyzing personal auto insurance affordability and availability issues. We offer comments on the following topics

1. Additional data elements crucial for analyzing affordability and availability across different communities and consumer socio-economic characteristics;
2. The need for company-specific data; and
3. The appropriate role of the NAIC and statistical agents in data collection;

<u>We Support the Proposed Data Call and Associated Analysis – It is Needed and Long Overdue</u>

The proposed data call has been thoughtfully crafted to balance the data needs for a meaningful study of affordability and availability of personal auto with burden on reporting companies. The data elements included are information collected and maintained by insurers in the routine operation of their business. The introduction to the data call explains the rationale for the data elements and the proposed analyses of the data.

We greatly appreciate the work of the states developing the data call. We must point out, however, that this effort is long overdue. The Auto Insurance (C/D) Working Group has been discussing data collection for years. The NAIC had the opportunity to set the terms of debate for analyzing affordability and availability of auto insurance but failed to take action while deferring to the Federal Insurance Office. It is long past time for the state insurance regulators to develop robust data collection for more meaningful and substantive analysis of auto insurance affordability and availability.

For most consumers, the ability to own and operate a vehicle is essential for work, meeting family needs, and participation in society. Because, in all but one state, auto insurance is required by law to operate a vehicle, the need for analyzing auto insurance affordability and availability is great. Penalties – including incarceration – for failing to maintain auto insurance are significant and, in some instances, severe. Yet, uninsured motorist rates are high and spike during periods of high unemployment, indicating that the primary cause of driving without insurance is cost. In addition, insurer pricing practices have come to rely, to an increasing extent, on drivers' socio-economic characteristics, with the result – as documented by numerous studies by the Consumer Federation of America[1] – that low- and moderate-income and minority consumers are punished for non-driving factors outside of their control. CFA studies also show that auto insurance pricing appears to be arbitrary with wide variation in the impact of a particular risk classification across insurers within a state and even in the rating methods of the same insurer across states. The proposed data call will allow for unbiased analysis of availability and affordability issues.

Specific Data Elements

We support the Primary Data Table and Loss Development Factor Table data elements and definitions. We also support the level of detail specified – voluntary vs assigned risk, standard vs non-standard markets, coverage type, policy limits and deductible range. This level of detail is reasonable and necessary to support the intended analysis.

For the Primary Data Table (or, perhaps, a separate data table), we suggest the addition of data elements related to policies-in-force and cancellations and use of premium finance. It is clearly relevant for an evaluation of affordability to identify the number and share of policies cancelled for non-payment of premium, for example. It is also relevant to identify communities in which the use of premium finance companies is significant. The additional data elements needed are:

- New Policies written (issued) during the period means the total count of new – not renewal – policies written (issued) during the period;
- Renewal Policies written (issued during the period means the total count of renewal –not new – policies written (issued) during the period;
- Policies cancelled by the consumer for any reason during the period;
- Policies cancelled by the insurer for any reason during the period ;
- Policies cancelled by the insurer for non-payment of premium during the period; and
- Policies written during the period involving premium finance by a third party premium finance company.

For the Quote Data Table, we suggest a definition of Application Received. Application Received means an applicant for personal auto insurance has submitted sufficient information – by phone, internet, mail or other means – for an insurance company or producer to determine if the insurer will offer insurance as evidenced by a declination to offer coverage or a preliminary or final premium quote for requested coverage.

We suggest it would be very useful to seek reporting of the Quote data elements by insurer distribution source: Direct (by phone or internet), Producer (independent and captive agents), Aggregator Web Sites, Other. We are confident that insurers have ready access to the source of consumer applications and can report by these data categories.

[1] A summary of the CFA studies is attached to these comments.

Finally, these data elements are collected and maintained by insurers since they are required data elements in the Personal Auto Market Conduct Annual Statement (MCAS). Since the MCAS is reported only on a state-by-state basis, the inclusion of the data elements in this data call would mean reporting of these data at the ZIP Code level.

The Need for Individual Insurance Company Reporting

A meaningful and robust analysis of auto insurance affordability and availability requires the collection and analysis of individual insurance company experience. The basic purpose of the data collection and study is to identify what insurers are offering what insurance at what price to what consumers and, consequently, whether specific groups of consumers face availability or affordability problems. Industry-aggregate data – even at the ZIP Code level – cannot answer these questions.

As an example of the importance of individual insurer data, consider the following: research undertaken by CFA shows that some of the major insurers refuse to quote in many ZIP Codes for people with perfectly clean driving records who have socio-economic characteristics that indicate that they might be lower-income. Other insurers do not do this. Obviously, not quoting for good drivers diminishes competition for those drivers and may drive auto insurance prices to unaffordable levels. Aggregate data would mask this sort of problem. Further, if an insurer is not quoting in certain ways, it could amount to a new form of redlining that regulators should be investigating. Additionally, patterns of sharp price increases in certain classes by an insurer might reveal discriminatory pricing against protected classes such as minorities or the poor.

We were greatly concerned by some of the discussion during the last Working Group call by industry and one regulator arguing that aggregate industry data was sufficient for the study. The discussion of data collection for analyzing availability and affordability has always contemplated individual company reporting because it has been widely-agreed and understood that individual reporting of data is essential to ensure data accuracy and data quality and to provide the level of data detail essential to produce an analysis that answers key policy questions instead of pushing the issues down the road.

The Appropriate Role of the NAIC and Statistical Agents

Finally, we want to be very clear that, while we have no objection to allowing insurers to utilize statistical agents for assistance in reporting the requested data, we would strenuously object to any data call that relied on statistical agents as the primary respondent. We were concerned by some of the discussion during the last Study Group call in which some suggested that the data request should be made to statistical agents and not to individual insurers. As we note above, the proposed data call is directed at – and intended to collect data from – individual insurance companies. Any efforts by the statistical agents to intercede in this process in an effort to either become the data source or negotiate what data the companies are willing to provide should be rebuffed. Statistical agents should be assisting insurers and regulators to meet the purposes and requirements of the data request – not acting as another trade association seeking to obstruct the examination of affordability and availability issues.

Conclusion

This Working Group has proposed a data call that would dramatically improve regulators' ability to assess auto insurance affordability, and that fits precisely with the charge of the Working Group. We have offered a few suggestions to improve the utility of the data call, but we believe that it is very well constructed and should not be altered in any significant way. Most importantly, the data call should remain, as always planned, a request of data directly from individual insurers.

Thank you for considering our views on this proposal; we are available to discuss it further at your convenience.

J. Robert Hunter	Birny Birnbaum	Chuck Bell
Director of Insurance	Executive Director	Program Director
Consumer Federation of America	Center for Economic Justice	Consumers Union