Consumer Federation of America

April 8, 2015

Dear Superintendent John Franchini:

According to an Allstate auto insurance filing in Arkansas, Allstate has filed a plan for the use of Price Optimization in New Mexico, which is currently acknowledged. Previously[1], we alerted you to the dangers of Price Optimization, and on December 16, 2014, we sent you a letter commenting on an Allstate auto insurance filing in Wisconsin. We said that it would be used to produce unfairly discriminatory rates, illegal in every state.

Whether the filing became effective or not, we ask that, due to the possible significant adverse impacts this filing has on policyholders in New Mexico, you take action to disapprove this filing if you have not already done so. We are convinced that the filing produces unfairly discriminatory prices in that two identical drivers of the same risk can be charged substantially different prices based on Allstate's determination of whether the individual being analyzed is more or less likely to leave the insurer if the price goes up (i.e., by use of elasticity of demand models applied individually to each policy in New Mexico). Prices may also be excessive compared to the risk-based prices for those consumers Allstate determines will shop less or otherwise identifies as less desirable customers based on what the filing labels "marketplace considerations." Research indicates that lower-income Americans often have less access to, and shop less for, financial services so this practice adversely impacts those already struggling to afford state-required auto insurance. The use of these price optimization techniques violate not only New Mexico law but also the Casualty Actuarial Society's Principles Regarding Property/Casualty Insurance Ratemaking requiring that rates be cost/risk-based.

Further, Allstate is almost certainly not the only company using price optimization tools in New Mexico. The price optimization vendor Earnix states that about half of all large (greater than $1 billion in premiums) auto insurers are using price optimization today. The use may not be applied through a rate filing in the manner of Allstate but through tiering of policy charges or other underwriting processes. These underwriting approaches are harder to discover and root out but are no less insidious and similarly illegal. Over the past several months, Insurance Commissioners in Maryland, Ohio and California[2] have issued bulletins to clarify that any use of price optimization is prohibited.

Please advise of the steps you are taking to disapprove the Allstate filing discussed above and of steps you are taking to protect New Mexico consumers from other price optimization

[1] Letter dated August 29, 2013; letter dated March 28, 2014; and three letters congratulating Maryland, Ohio, and California for banning Price Optimization.
[2] Bulletins for Maryland, Ohio, and California

applications that move the price away from risk/cost-based levels throughout the New Mexico insurance industry.

Thank you for your consideration. We hope to hear from you soon,

J. Robert Hunter
Director of Insurance
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