Consumer Federation of America

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REGULATORS AND CONSUMERS DESERVE A BETTER RESPONSE FROM THE INSURANCE INDUSTRY CONCERNING BEST PRACTICES FINDINGS

Industry Attacks on CFA Report Ignore NAIC Data In Effort to Defend Deregulation and Status Quo

Washington, D.C.– Immediately following the November release of a thoroughly documented report on auto insurance regulation by Consumer Federation of America (CFA), the insurance industry issued, in rapid-response style, multiple critiques of the study. Today CFA's Director of Insurance and report author, former Texas Insurance Commissioner Bob Hunter, will present the CFA study, "What Works: A Review of Auto Insurance Rate Regulation in America and How Best Practices Save Billions of Dollars," to the National Association of Insurance Commissioners at their Auto Insurance (C/D) Study Group Conference Call and rebut the various claims of the industry.

"Rather than confront the facts, the insurance industry is throwing the kitchen sink at our report hoping to steer regulators, policymakers and the public away from the very compelling data that show how good regulation of insurance companies provides the best results for consumers by lowering rates and enhancing competition," said Hunter.

The data reviewed by CFA show that California's vigorous prior approval regime is the only system in the nation to have lowered motorists' auto insurance expenditures over the past 25 years. According to CFA's analysis, California motorists have saved more than $100 billion on auto insurance since the state's regulatory system was installed by voter initiative in 1988. CFA concluded that Americans could save $350 billion over the next decade if every state were to adopt a system akin to California's.

The full report is available for download at http://bit.ly/whatworks-fullreport, and the accompanying news release is available at http://bit.ly/whatworks-pressrelease.

While the insurance industry has made very little effort to substantiate its critique of the CFA report, CFA has prepared a detailed refutation of the industry's responses, which is presented below.

Myth vs. Fact: An analysis of the insurance industry's misleading critique of CFA's study

The arguments addressed below are gleaned from responses to CFA's report issued by the *following insurance industry organizations:*

California Insurance Information Network (CAII)
Insurance Information Institute (III)
Property Casualty Insurance Association of America (PCI)
National Association of Mutual Insurance Companies (NAMIC)

Source	**Summary of Industry Argument**	**Fact**
CAII; III	The fatality rate has dropped in CA from 2 per 100 million miles traveled in 1990 to 1.1 in 2011.	The national fatality rate dropped even more, from 2.08 in 1990 to 1.1 in 2011, therefore this argument would only make sense if California saw *higher* than average increases
PCI	Cars and roads have gotten safer.	This is not unique to California and would indicate that California should follow the national average, not fall substantially below it.
CAII; III	California has adopted laws to attack fraud.	Most states have adopted anti-fraud programs similar to California, as industry data reveal. See Appendix 1.
CAII; III	"No Pay No Play" adopted in 1996 in CA.	There are 9 other states with "No pay, no play" laws (Alaska, Iowa, KS, Michigan, New Jersey, North Dakota, Oklahoma and Oregon). Their increase over the 1989-2010 period averaged 69%, substantially above the national average of 43.3%. This not only fails to support the industry's argument, it contradicts their claim.
CAII; III	Stricter drunk driving laws passed in CA.	California's laws are not unique, as industry data reveal. See Appendix 2.
CAII; III	Increased use of airbags.	Increased use of airbags is a national phenomenon and should have the same impact on rates in California as the rest of the country.
CAII; III	The *Moradi-Shalal* decision, which repealed the consumer right to bring third-party suits against insurers for bad faith and not rate regulation is responsible for California's unique results.	The report addresses this question at pages 29-30. The states that have similar restrictions to those in California do not show the rate reductions seen in California. Further, as the report illustrates, rates for comprehensive coverage, which is a first party coverage not subject to this legal limitation, have fallen by 17% in California while rising 35% nationally. Some states with *Moradi*-type laws have been among the worst performers during this period, with Mississippi seeing increases of 69%

		and North Dakota 87%.
CAII; PCI	Increased use of seatbelts.	Data from the National Highway and Transportation Administration place California seatbelt use in 1986 at 45% and at 96.6% in 2011. The national figures were 37% in 1986 and 84% in 2011. Growth in seat belt use over this time period was actually greater nationwide (127%) than in California (115%), which implies that the change in seat belt use should have lowered USA rates vis-à-vis CA.
PCI; III	Regulation stifles competition so strict regulation means higher prices and less innovation. “No other states have implemented a more restrictive system than Prop. 103,” according to the PCI press release.	No other state has had as much success in keeping rates down as California. California’s regulatory system has also produced the fifth most competitive auto insurance market in the nation. As for innovation, only California has implemented a Low-Cost Auto Insurance program for low-income drivers.
PCI	Rates in deregulated states are lower than rates in strict regulated states.	The deregulated and most weakly regulated states have less traffic density than the national average while more stringently regulated states have more traffic density than average, so it is not surprising that that costs are different. As we point out in the report, CA has great success holding rates below that which traffic density would predict, with expenditures that are about 22% lower we would expect. Illinois, the industry’s favorite no competition state, has a density of 0.78 and a rate of $732.56, virtually at the expected average expenditure of $734. Similarly, other weakly regulated states such as Kentucky and South Carolina are on the expected line; Wyoming is about 6% lower, and Alaskans spend about 50% more on auto insurance than density predicts. Overall, with nearly twice the average traffic density, prior approval states keep premiums down well See Appendix 3 for the graph showing California as an outlier and Appendix 4 for the data comparing average expenditures and density by regulatory system.
III	Because of competition rates rose nationally only 4.2% from 2002 to 2012 although the CPI	While rates have risen nationally since 2002, they have fallen in California, which is far more relevant in terms of identifying best practices.

	rose by 27.6%	Further, if the industry removed California's savings during this time period, the national average would increase more than 4.2%. It is curious that the industry, which always touts competition, fights so fiercely to maintain it's antitrust exemptions. The assumption that competition and regulation don't work together to maximize excellence is wrong. Prop 103's success proves that good regulation maintains a high degree of competition and reasonable insurer profits. The whole point of our review was to see how rates changed over time. CA did best by a long shot, in part because of maximized competition.
NAMIC	CFA has a "well-deserved reputation for manipulating statistics and omitting critical information to reach pre-fabricated conclusions."	A rather sloppy act of name-calling. This is a heavily documented and testable report whose data were compiled by an actuary. (J. Robert Hunter is a Fellow, by examination of the Casualty Actuarial Society and a Member of the American Academy of Actuaries and was recently selected as one of the 25 "living legends of insurance" by the industry trade journal, the National Underwriter.)
NAMIC	CFA does not reveal if the 43.3% increase was adjusted for inflation.	Clearly, NAMIC did not read the report. As the report explains on page 21: "In 2010, Californians were spending 0.3 percent less on auto insurance than they spent in 1989, even as the nation spent 43.3 percent more on average. Hawaiians, who saw a 13.7 percent expenditure increase over the period, saw the results closest to California and only four states saw increases less than 25 percent, while drivers in 32 states endured increases of more than 50 percent. <u>After adjusting for inflation, Californians were spending 43 percent less on average on auto insurance more than two decades after the passage of Proposition 103 than when insurance was sold in an unregulated market</u>." [emphasis added]
NAMIC	CFA does not reveal if "average expenditures are per policy, per capita or per household." (NAMIC)	The expenditure charts and endnote 1 clearly identify the source of the data as the NAIC Automobile Insurance Database reports. In those reports expenditures are defined thusly: Average Expenditure:(Liability Written Premium

		+ Collision Written Premium + Comprehensive Written Premium) /Liability Written Exposures
NAMIC	The 43.3% increase was because "The price of the average vehicle rose considerably between 1989 and 2010."	California was equally subject to vehicle price increases so this point has no explanatory value with respect to why California was so different than other states (or, for that matter, why Nebraska encountered much larger increases than Hawaii).
NAMIC	The report does not consider claims costs changes.	We did carefully look at the drop in claims costs in California. Our research indicates that Proposition 103's incentives for safe driving caused the drop in loss costs and, further, the regulatory oversight provided by 103 translated those cost savings into consumer savings.
NAMIC	Large increase happened in states with low rates at the beginning of the period, which are still low today.	For the ten states with the highest increases during, all but the Dakotas saw their ranking with respect to other states get worse, with half of these large-increase states falling ten or more spots. It is true that for Nebraska, where a 108% increase still left them with the 46th highest prices (6th lowest), still paid only 75% of the national average in 2010, but twenty years prior it was at 50%. In other cases, such as Louisiana, a 96% increase made the state go from 16th highest to the 3rd highest priced state in the nation, 42% higher than the national average in 2010.
NAMIC	Report fails to give information on states that have moved toward less regulation, South Carolina, New Jersey and Massachusetts.	This is simply not true. There is plenty of information about all the states. South Carolina, for example has rates that are 50% higher in 2010 than they were in 1989 and is the 13th least competitive state in the country. Massachusetts remains uncompetitive despite its move away from a state set system (which CFA described as inefficient and not a substitute for regulation during the November 12, 2013 news conference releasing the CFA report). New Jersey had the nation's highest rates in 1989 and it had the highest rates in 2010. In short, California's results have been remarkably good, these "competitive" states' results have not been remarkable.

"Insurance companies have actually fared well under the regulatory reforms that save California drivers hundreds of dollars every year, but the industry reflexively resists accountability and oversight, even as it welcomes the unending stream of customer premiums that mandatory auto insurance brings. Policymakers and the public would be best served by focusing on the data and the facts and rejecting the insurance industry's rapid-fire responses to every analysis that does not confirm its viewpoint," said Hunter.

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Appendix 1

KEY STATE LAWS AGAINST INSURANCE FRAUD

(As of September 2013)

State	Insurance fraud classified as a crime	Immunity statutes	Fraud bureau	Mandatory insurer fraud plan	Mandatory auto photo inspection
Alabama	X (1), (2)	X (3)			
Alaska	X	X	X		
Arizona	X	X	X		
Arkansas	X	X	X	X	
California	X	X	X	X	
Colorado	X	X	X (4)	X	
Connecticut	X	X	X (1), (5)		
Delaware	X	X	X		
D.C.	X	X	X (6)	X	
Florida	X	X	X	X	X
Georgia	X	X	X		
Hawaii	X (1), (2)	X	X		
Idaho	X	X	X		
Illinois	X	X	X (1)		
Indiana	X	X			
Iowa	X	X	X		
Kansas	X	X	X	X	
Kentucky	X	X	X	X	
Louisiana	X	X	X	X	
Maine	X	X	X (1)	X	
Maryland	X	X	X	X	
Massachusetts	X	X	X		X
Michigan	X	X			
Minnesota	X	X	X	X	
Mississippi	X	X (3)	X (5)		
Missouri	X	X	X		

Montana	X	X	X		
Nebraska	X	X	X		
Nevada	X	X	X (5)		
New Hampshire	X	X	X	X	
New Jersey	X	X	X (5)	X	X
New Mexico	X	X	X	X	
New York	X	X	X	X	X
North Carolina	X	X	X		
North Dakota	X	X	X		
Ohio	X	X	X	X	
Oklahoma	X	X	X		
Oregon	X (1)	X			
Pennsylvania	X	X	X (5)	X	
Rhode Island	X	X (1), (3), (7)	X (5), (8)	X	X
South Carolina	X	X	X (5)		
South Dakota	X	X	X (5)		
Tennessee	X	X		X	
Texas	X	X	X	X	
Utah	X	X	X		
Vermont	X	X		X	
Virginia	X	X	X (8)		
Washington	X	X	X	X	
West Virginia	X	X	X		
Wisconsin	X	X	X (5)		
Wyoming	X	X (3)			

(1) Workers compensation insurance only. (2) Healthcare
No fraud bureau. Industry assessment payable to the Insurance Fraud Cash Fund. Attorney General's office conducts fraud prosecution. (5) Fraud bureau set up in the State Attorney General's office. (6) In the Distric
Consumer Protection Bureau in the Department of Insurance, Securities and Banking which investigates fraud in all three financial sectors. (7) Auto insura
up in the state police office.

Source: Property Casualty Insurers Association of America; Coalition Against Insurance Fraud.

Appendix 2

STATE LAWS CURBING DRUNK DRIVING
(As of October 2013)

				Mandatory ignition interlocks (1)			
	License revocation				First offenders		
State	Admin. License rev./ susp. (2)	Mandatory 90-day license rev./ susp. (3)	Open container law (4)	All offenders	All	High-BAC offenders only (5)	Repeat offenders
Alabama	X	X	X			X	X
Alaska	X	X	X	X	X		X
Arizona	X	X	X	X	X		X
Arkansas	X	X		X	X		X
California	X	X	X	in 4 counties	in 4 counties		X
Colorado	X	X	X	X	X		X
Connecticut	X	X		X	X		X
Delaware	X	X				X	X
D.C.	X		X				
Florida	X	X	X			X	X
Georgia	X	X	X				X
Hawaii	X	X	X	X	X		X
Idaho	X	X	X				X
Illinois	X	X	X	X	X		X
Indiana	X	X	X				
Iowa	X	X	X				
Kansas	X		X	X	X		X
Kentucky			X				X
Louisiana	X	X	X	X	X		X
Maine	X	X	X	X*	X*		X*
Maryland	X		X			X	X
Massachusetts	X	X	X				X
Michigan			X			X	X
Minnesota	X	X	X	X	X		X
Mississippi	X	X					X**
Missouri	X			X	X		X
Montana			X				X
Nebraska	X	X	X	X	X		X
Nevada	X	X	X			X	
New	X	X	X			X	X

Hampshire							
New Jersey			X			X	X
New Mexico	X	X	X	X	X		X
New York	(6)		X	X	X		X
North Carolina	X		X			X	X
North Dakota	X	X	X				
Ohio	X	X	X				
Oklahoma	X	X	X			X	X
Oregon	X	X	X	X	X		X
Pennsylvania			X				X
Rhode Island			X				
South Carolina			X				X
South Dakota			X				
Tennessee			X			X	
Texas	X	X	X			X	X
Utah	X	X	X	X	X		X
Vermont	X	X	X	X	X		X
Virginia	X		X	X	X		X
Washington	X	X	X	X	X		X
West Virginia	X	X	X	X	X		X
Wisconsin	X	X	X			X	X
Wyoming	X	X	X			X	X

(1) Ignition interlock devices analyze a driver's breath for alcohol and disable the ignition if a driver has been drinking. States identified mandate the devices on offenders' vehicles.

(2) On-the-spot drivers license suspension or revocation if BAC is over the legal limit or the driver refuses to take a BAC test.

(3) Mandatory of the implied consent law, which means that drivers who refuse to take a breath alcohol test when stopped or arrested for drunk driving will have their license revoked or suspended.

(4) Prohibits unsealed compartments for all occupants. Arresting officer not required to witness consumption.

(5) Usually 0.15 percent BAC or higher.

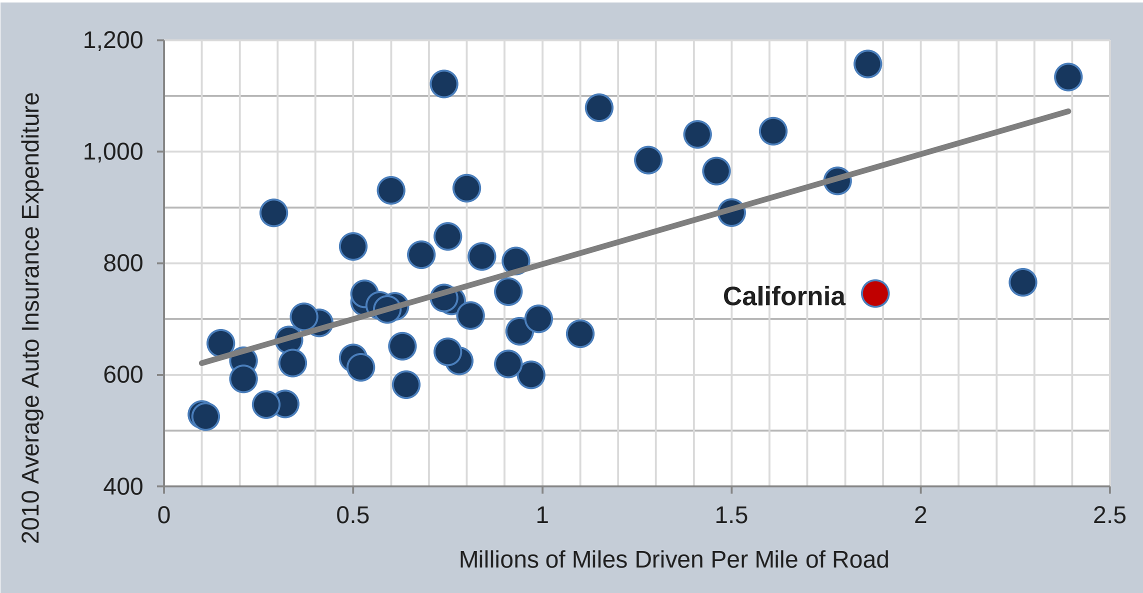
(6) Administrative suspension lasts until prosecution is complete.

*Effective 12/1/13 7/1/14.

BAC=Blood alcohol Highway Safety; Property Casualty Insurers Association of America.

Appendix 3

CALIFORNIA INSURANCE EXPENDITURES ARE MUCH LOWER THAN TRAFFIC DENSITY PREDICTS



Source: Consumer Federation of America (2013). What Works: A Review of Auto Insurance Rate Regulation in America and How Best Practices Save Billions of Dollars.
Note, traffic density data source: Federal Highway Administration

Appendix 4.

AVERAGE TRAFFIC DENSITY AND EXPENDITURE BY REGULATORY SYSTEM

	Average Density	Average Expend
FLEX	0.54	$784
DEREG	0.55	$677
U&F	0.63	$655
F&U	0.84	$785
PA	1.01	$801