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Cc: Chair Alan McClain, Vice Chairs Michael Conway and Michael Yaworsky, Property and Casualty Insurance (C) Committee Members

Re: Property and Casualty Committee Forum on Telematics Issues and Development of White Paper and Regulatory Guidance

We, the undersigned consumer representatives, thank the Property and Casualty (C) Committee for fulfilling its charge of providing a forum for discussing issues related to the use of telematics/UBI in insurance. We urge the Committee to build on these efforts by 1) developing and issuing regulatory guidance for these programs and 2) conducting a data call and issuing a white paper on telematics.

Telematics/usage based insurance (UBI), with proper regulation and oversight, can benefit consumers by more accurately matching insurance rates to risk, promoting safer driving behavior, and reducing insurers' use of unfair socioeconomic factors in auto insurance pricing and underwriting. However there are substantial concerns about accountability and transparency in these programs, so telematics requires substantial privacy protections, limits on the data that can be collected and how it can be used by insurers, and stronger overall regulation.

Telematics programs collect consumers' driving data via mobile apps, plug-in devices, Bluetooth beacons, and from the cars themselves. Insurance companies analyze that data and use it to assess driving behavior and patterns and to determine insurance premiums. The premium savings and surcharges vary by insurer, with some insurers discounting rates to high scorers but not surcharging those with worse scores. Driving behaviors used in these telematics programs tend to include: 1) hard braking, 2) the time of day or night driven, 3) phone use, 4) distance or miles traveled, 5) acceleration, 6) speed, and 7) cornering (how quickly and sharply a driver goes around corners), though there also appear to be several other data points collected and used by insurers.

Insurance companies are aggressively promoting telematics through advertising, marketing, and subtle conditioning. Despite these efforts most consumers do not participate in these programs and many have substantial concerns about them. These concerns include questions about the privacy of data collected by telematics, insurer control of that data, what data points are collected and how insurers use them, vulnerability to hacks and data breaches, and how this data is used in the claims process.

Consumers' apprehensions are well-founded. In March 2024 the New York Times reported that the automobile manufacturers General Motors, Honda, and Hyundai were collecting and sharing consumers' driving data with the data brokers LexisNexis and Verisk without consumers' consent or even their knowledge.<sup>1</sup> The information included records of hundreds of trips per driver, the trips' start and end times, the distance driven, and any speeding, hard breaking, or acceleration. LexisNexis was using the data to create a risk score for insurance companies and many consumers saw their premiums increase by at least 21%. After the article was published, General Motors claimed that it would halt this practice, but we are concerned that auto manufacturers, data aggregators, and insurance companies continue to participate in these transactions.

This case is a prime example of the problems and dangers that could result from telematics. Telematics/UBI should be used to improve accuracy in risk assessment, encourage safe driving, and assist drivers in the event of accidents. It should not become a platform where consumers or their data are turned into products.

The Property and Casualty Committee's adoption of both a white paper and regulatory guidance on telematics would greatly benefit consumers, state regulators, and the insurance industry. During numerous meetings with state Insurance Departments, the Consumer Federation of America (CFA) has found that many states do not have specific laws, bulletins, or rules governing telematics. Some insurance codes do not include the word telematics at all. Regulatory guidance, in the form of a model law or bulletin, would help states and ease consumer distrust of these programs. And preventing problems is significantly better than attempting to correct abuses after the fact.

The Committee's regulatory guidance for telematics should include the following items:

- **Transparency of all variables in telematics programs and how they affect premiums.** Insurers should provide consumers with a list of all the variables used, with the relative weight (percentage) given to each variable in the program. Consumers should clearly understand the impact each driving behavior has on their premiums.
- **Actuarial support for each variable in telematics.** Regulators should only allow data demonstrably related to the risk of loss, and insurers should provide actuarial justification for each data point used.
- **Strict limits on data collection and usage.** Data collected by telematics should only be used for insurance rating and effective management of the insurance policy. Insurers and third party vendors should only collect data needed to calculate premiums in accordance with the approved telematics programs.
- **Strong privacy standards for consumer data.** Data collected should not be sold, loaned, rented, monetized, or used in any way beyond the approved auto insurance purposes.

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<sup>1</sup> "Automakers Are Sharing Consumers' Driving Behavior With Insurance Companies." By Kashmir Hill. The New York Times. March 11<sup>th</sup>, 2024. Available at <https://www.nytimes.com/2024/03/11/technology/carmakers-driver-tracking-insurance.html>.

And it should not be collected or used at all without consumers' knowledge and informed consent. Consumers should also have access to their own data.

- **Testing for unfair and unintentional bias.** Telematics should be subject to bias testing to ensure algorithms and data do not result in unfair discrimination against protected classes. Any such discrimination should be ended or the effects should be mitigated.

Additionally there is a severe lack of reliable information about telematics, including what factors each program uses, how the programs operate, and the general issues faced by regulators and consumers. To help remedy this, the Property and Casualty Committee should conduct a data call and issue a white paper on telematics/UBI. The white paper should include the following information, presented in aggregate and broken out by company, for each of the nation's ten largest insurers that offer a telematics program to policyholders:

- The number of drivers who participate in telematics programs
- The percentage of drivers who participate in telematics programs relative to the number of insured drivers in total
- The number of drivers whose rates increased this year due to telematics
- The average premium increase due to the telematics factor or factors for those who experienced an increase
- The number of drivers whose rates decreased this year because of telematics
- The average premium decrease due to the telematics factor or factors for those who experienced a decrease
- The number of drivers whose premiums were unchanged due to the telematics factor or factors
- The factors that are used in each telematics program and the various weight assigned to each factor
- A comprehensive list of the data collected by each telematics program including data that are collected but not directly used in the programs, and
- Information on the distribution of insurance policy types that use telematics—for example, the proportion of telematics participants who only purchase a minimum limits policy, compared with the proportion that purchase full coverage policies.

We appreciate the Property and Casualty Committee's consideration of this request. NAIC consumer representatives are eager to be involved and provide feedback on the ongoing forum, the development of regulatory guidance, and the telematics white paper.

Please contact us at [mdelong@consumerfed.org](mailto:mdelong@consumerfed.org) with any questions.

Sincerely,

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