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Comments of Birny Birnbaum
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to the National Conference of Insurance Legislators

Auto Insurance Affordability

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Thank you for the opportunity to speak to you today on auto insurance affordability issues.

For those of you who don't know me. I've worked for the past 25 years on insurance affordability issues, the past 20 years as a consulting economist specializing in insurance rate and market analyses and as the economic adviser and director of the Center for Economic Justice, a non-profit consumer organization that seeks to ensure fair access and fair treatment to credit, insurance and utility services, with an emphasis on representing low-income consumers. From 1991 through 1996, I worked as the Chief Economist of the Texas Office of Public Insurance Counsel – a state agency dedicated to representing insurance consumers – and Chief Economist and Associate Commissioner for Policy and Research at the Texas Department of Insurance. In those roles, I performed analyses of auto, homeowners, title and credit insurance markets. I performed the first redlining studies of auto insurance and was responsible for establishing the collection of data by the TDI to enable the Department to meaningfully monitor insurance market.

The data collection included zip code level data reporting by insurers. Analysis of these data showed initially that consumers in low-income and high minority population zip codes were many times more likely to be denied coverage by standard and preferred insurers and end up in the high-cost assigned risk plan. Subsequent analyses showed that nearly all the largest auto insurers had very little presence in low-income and minority communities – market shares in these communities a fraction of their statewide market share.

For a while, these zip code data by company were public and after two reports by the CEJ in 1996 and 1997, Commissioner Elton Bomer took action against one insurer, who agreed to place agents in minority communities and write more business in these communities.
At this point, the insurance industry sued to keep this zip code data confidential, claiming trade secret. After a four year legal battle, the industry prevailed and the public no longer has access to data to monitor the market performance of insurers or data to hold regulators accountable for their monitoring of insurance markets.

I provide this history for two reasons. First, this is an area in which I have long extensive experience and technical expertise. Second, there is a long history of insurers working hard to prevent meaningful analysis of the market impacts of their pricing practices.
I'd like to make four major points today

1. Important to Look at Affordability Issues
2. Important to Analyze Affordability in an Objective Manner and Not With a Methodology That Assumes the Answer or Changes the Question
3. Data Needed for Meaningful Affordability Analysis Are Available – Normal Business Records of Insurers;
4. States-insurance regulators and legislators need to step up or risk ceding further authority to the federal insurance office.

<u>Important to Look at Affordability Issues</u>

In all but one state, financial responsibility laws require drivers to have insurance. And in all states, lenders require insurance for vehicle purchase loans. Insurance is required for a consumer to drive and the ability to drive and operate a vehicle is essential for individual economic development, particularly for lower-income consumers. The vast majority of consumers – again, particularly lower-income consumers who live in distant suburbs – require a car to get and hold a job.

States have increased the penalties for and monitoring of driving without insurance. These punitive measures – which include taking away civil rights through no pay no play legislation as well as fines and incarceration for driving without insurance – dwarf the efforts by states to monitor or promote affordability **for the most vulnerable consumers.**
There is ample reason to be concerned that the most vulnerable consumers – those with the greatest difficulty affording auto insurance – face pricing penalties because of their low-income or race.

Insurers have long utilized detailed data analyses of insurance and non-insurance data to identify high-value customers and low-value customers. In recent years, we have seen insurers use of a variety of socio-economic factors that disproportionately penalize low-income and minority consumers. In the past few years, we have learned about price optimization – charging prices based on non-risk factors – that penalize consumers in communities with less competition – like communities of color served primarily by non-standard auto insurers.

And in the past few weeks, TransUnion has started to market a criminal history insurance scoring model, based on traffic violations and criminal records to predict claims. One need only look to the systematic targeting of minorities for minor violations in Ferguson Missouri to understand that this new big data application reflects and perpetuates historical discrimination.

Affordability is an issue – the uninsured motorist rate continues at high levels. The IRC's most recent analysis covering the 2010-2012 period estimates a national UM rate of 12.6% with much higher rates in some states. It is clear that the primary driver of the UM rate is income – the UM rate increases in poor economic conditions. This high rate – 30 million uninsured drivers – continues despite the increased monitoring and penalties for driving uninsured. There is clearly a need to analyze auto insurance affordability – what consumers are offered what coverage at what price in what locations – and how does the price these consumers face compare with their financial resources. The need for such monitoring of affordability has been recognized by Congress, which assigned the responsibility to the Federal Insurance Office – even though auto insurance is regulated at the state level.

<u>Important to Analyze Affordability in an Objective Manner and Not With a Methodology That Assumes the Answer or Changes the Question</u>

While the concept of affordability is straightforward – how does the price of auto insurance faced by consumers compare with those consumers' financial resources to pay for the coverage – there is disagreement about how to specifically measure and analyze affordability. I firmly believe that the analysis of affordability should be data driven and objective. The methodology should not be biased towards any outcome and the analysis should be sufficiently detailed to, one, identify affordability problems if they exist, and, two, reveal information about the causes of affordability problems to inform public policy.

The way to accomplish this is to collect premium and premium quote data at the policy level to see what consumers are offered what prices for what coverages in what locations. These pricing data must be accompanied by loss data at a similarly granular level. Combined with other data – uninsured motorists rates and force-placed insurance and assigned risk activity at small geographic levels as well as economic data like unemployment rates, income and other – these data not only allow identification of consumers who either can't afford auto insurance and don't purchase it or consumers whose auto insurance premium is a very large part of their income Most important, this type of granular data allows for analysis of the causes of the problem – whether that is high premiums, low incomes, insurer pricing practices, consumer fraud or other. Stated differently, the affordability analysis needs to be performed without pre-judgment of the outcomes, but in sufficient detail to identify causes and inform public policy.

An example of how not to do an affordability analysis is the FIO proposal for an affordability index based on 2% of income. There are a number of problems with the approach, but I'll focus on just one – the measure provides no insight to policymakers on the causes of affordability and, consequently, invites a rehash of the same arguments we have heard for decades – arguments which will never be resolved in the absence of a more granular analysis.

Another example of how not to analyze affordability is to look at state-wide averages. Such analyzes simply don't identify those groups unable to afford insurance. This is not the approach taken for recent flood insurance affordability analysis efforts – there is little use in determining that flood insurance is affordable on a state wide basis, when we know that certain communities are facing massive affordability problems. Moreover, issues that impact state-wide costs are not the same issues for affordability for certain consumer groups. Stated differently, answering the affordability challenge by focusing on state-wide cost drivers is changing the topic.

<u>Data Needed for Meaningful Affordability Analysis Are Available – Normal Business Records of Insurers;</u>

The data for a meaningful affordability analysis is readily available – the normal business records of insurers. Unlike the FIO proposal which asks insurers to create new data, our proposal works with the data insurers already generate and collect in the normal cycle of business.

In some cases, insurers are already reporting this detailed data to some states. In other cases, there would be new reporting by some insurers of these data – but no new data would need to be created.

The reporting of the detailed data on pricing, quotes and claims is reasonable and necessary. Insurers collect and access huge amounts of insurance and non-insurance personal information on individual consumers. It is reasonable for regulators to monitor and for consumers to understand the impact of insurers' use of these data on insurance markets. These types of granular data are collected by other financial service regulators – for example the HMDA data for loans. These data have enabled regulators, lenders, academics and fair housing/fair lending groups to analyze mortgage and small business lending markets in positive ways.

We are alarmed that at a time when greater transparency of insurer pricing practices is needed because of the various Big Data scoring models they use, insurers are pushing states to adopt laws removing even existing transparency to the public – laws which broaden the secrecy of insurer pricing practices. This is the wrong direction and leads me to my last point.

<u>States-insurance regulators and legislators need to step us or risk ceding further authority to the federal insurance office.</u>

While federal agencies need no encouragement to increase their authority, the decades-long history of states failing to even analyze auto insurance affordability issues is an invitation for FIO to take the lead. It is inconceivable to me that state insurance regulators have been completely passive as FIO moves toward implementing its affordability analysis independent of the states, including collection of data by FIO.

While insurers may believe they can continue to stall any meaningful evaluation of their pricing practices and the impact on affordability, the failure of the states to take ownership of the issue will eventually lead to an outcome that neither states nor insurers welcome.