



**Comments of the Center for Economic Justice to the
NAIC Big Data Working Group: Proposed 2017 Charges**

October 13, 2016

The various issues emerging from insurers' use of Big Data is without doubt the greatest threat to state-based insurance regulation. Insurers' use of big data changes the way they market and price insurance, settle claims, collect and use data from and about consumers and interact with consumers. 20th century regulatory frameworks and regulatory tools are unsuited to this new age and failure to modernize will lead to de facto deregulation and criticism of the state-based system.

Over the past two to three years, CEJ and others have made numerous presentations providing regulators with evidence of these challenges in pricing, risk classification, privacy, consumer accountability, claims settlement and market conduct surveillance. This is in addition to the more general reports of big data concerns by the Federal Trade Commission, the White House and the UK Financial Conduct Authority.

The industry trades' claims that no evidence has been presented on the need for action by regulators rates 4 Pinocchios on the fact check test.

The trades' comments are self-serving and certainly not in the interest of the insurers they are supposed to represent. Modernizing insurance regulation, in part by addressing big data challenges and opportunities, will most quickly make progress towards a more efficient and effective system of market regulation – an outcome that clearly benefits insurers, but not the trades whose goal is to defeat any initiative proposed by consumers or regulators.

PCI's comments continue its long history of changing the subject whenever they don't like the issue. Whether the issue is insurance affordability, availability, big data, more efficient market analysis PCI trots out the bromide of "forget all that, let's focus on underlying costs." We should all deal with underlying cost drivers – including the areas where PCI seems to have no interest like flood risk – but those efforts and those comments are woefully out of place here.

As for ISO, they apparently believe that there is no reality outside of what they say or think. ISO's claims that there is no evidence to suggest the existing regulatory framework is inadequate and that insurers' use of big data has occurred for decades without regulatory or consumer concern is another 4 Pinnochio whopper.

While CEJ believes the proposed charges could use more specificity, we urge you to reject the hollow comments by the trades and start the hard work of addressing the huge challenges posed by insurers' use of big data. The decision you make will tell consumers whether it is the insurance regulators or the insurance industry who sets the agenda for regulatory modernization and consumer protection.

We generally support the charges. We strongly oppose revising the charges to placate the industry's unsupported complaint about "conclusions already made." The charges accurately reflect the activities of the Working Group to date and, if anything, could better reflect the urgency of the issue.

We support Charge A. We believe more specificity could be included, as set out in proposals, but the charge as written represents continuation of your work to date and makes progress. Our proposal 1 for a template for a survey on sources and uses of data is an example of a concrete proposal that can help further inform regulators' efforts.

We suggest revising charge B to focus on the NAIC providing regulatory resources – like those provided to financial analysts and for principles based reserving – and to avoid any wording suggesting the NAIC might become a regulator in any way shape or form.

Propose a mechanism to provide resources to states for technical analysis of and data collection related to states' review of complex models used by insurers for underwriting, rating, and claims. Such mechanism shall respect and in no way limit states' regulatory authority.

Charge C is at least 15 years overdue and warrants regulators' strong support.

Thank you for your consideration.