



Consumer Federation of America

January 20, 2023

District of Columbia Department of Insurance, Securities, and Banking
Associate Commissioner Philip Barlow
1050 First St NE #801
Washington, DC 20002
Philip.barlow@dc.gov
202-442-7823

Re: Request for Comment—Draft Data Call on Unintentional Bias in Automobile Insurance

Dear Associate Commissioner Barlow:

The Consumer Federation of America (CFA) submits these comments regarding the District of Columbia Department of Insurance, Securities and Banking's (Department) draft data call on unintentional bias in private passenger auto insurance. We applaud the Department's efforts to gather and test auto insurance data in order to eliminate unintentional biases that can make this critical – and required – product less available and less affordable for many consumers. As we detail below, we urge that the draft data call be built to reflect the Standard Data Requests developed by the National Association of Insurance Commissioners (NAIC) and expanded to include additional elements in order to obtain a more detailed picture of this problem.

In order to provide some clarity to the purpose of the data call we encourage you to provide a definition of the term “unintentional bias.” The definition should make the object of this research clear: identifying insurance outcomes – whether in marketing, underwriting, rating, claims handling, or antifraud – that disproportionately impact people when evaluated on the basis of race, ethnicity, or other protected class characteristics. Key to the definition is a recognition that the bias does not need to be explicit – the fact that an insurer does not use, for example, race in its rating algorithm does not preclude a finding of unintentional bias. Additionally, an algorithm or practice can be unintentionally biased even if it is also found to have an actuarially-based bias. Indeed, the existence of both a risk-based correlation and a race-based correlation may highlight the “unintentional” nature of the latter bias, but it does not eradicate the disparate impact or the need to work toward eliminating that unintended bias.

For years consumer advocates and racial justice groups have called for investigations of bias and discrimination in this area; CFA's investigations have found considerable bias in auto insurance premiums.¹ Since the Department is charged with insurance oversight and regulation, it has the necessary authority to collect data and proceed with an investigation into the existence and impacts of unintentional bias in the auto insurance market. We offer the following recommendations that we believe will enhance the data collection in a manner that provides for a more robust analysis of unintentional bias.

¹ See, for example, the studies listed on CFA's insurance research webpage at <https://consumerfed.org/cfa-studies-on-the-plight-of-low-and-moderate-income-good-drivers-in-affording-state-required-auto-insurance/>.

Recommendation 1 – Include Additional Elements in the Quote/Application Data Call

The Department has asked for several applicant characteristics that may be used by insurers in order to make their underwriting decision and calculate a premium quote. For the sake of standardization with other regulatory tools, we suggest that the Department consider using the NAIC’s Standardized Data Requests for Private Passenger Auto – Private Passenger Auto In Force SDR 7-15-19 – as your template, as carriers are familiar with this data call tool. Of course, to meet the demands of this research, there are many Fields that can be removed from the SDR and several Fields that would be added, including those in your draft data call. However, there are several additional underwriting and rating factors commonly used by insurers that may lead to unintentional bias but are not included in the Department’s draft. We believe the collection of a more complete data set will allow for a better analysis of what is driving unintentional bias should it be found; this will provide the Department and carriers a clearer and more precise pathway toward ending or mitigating the bias.

The Department should request the following additional variables:

Variable	Definition	Suggested Data Type
Level of Education	Primary applicant’s level of educational attainment	Categorical (examples: high school, some college, bachelor’s degree, advanced degree)
Employment Status	What is the primary applicant’s employment status?	Categorical (examples: employed full-time, employed part-time, unemployed, homemaker, retired)
Occupation or Job Title	Primary applicant’s occupation	Text
Homeownership Status	Does applicant own their home?	Yes, No, Not Known
Non-Smoker	Is the applicant a non-smoker?	Yes, No, Not Known
Academic Standing of Rated Driver	Is any driver rated as a “Good Student”	Yes, No, Not Known
Credit Based Insurance Score	What was the applicant’s CBIS?	Numerical
Credit Based Insurance Score	What was the maximum CBIS in this model?	Numerical (this will provide a way to standardize scoring across carriers)
Vehicle Purchased (New or Used)	Was the insured vehicle new when purchased?	Yes, No, Not Known
Years with Prior Insurer	How long was the applicant insured by their prior insurer?	Categorical (for example: 0-1 years, 1-3 years, 3-5 years, 5-10 years, more than 10 years)

Coverage Limits with Prior Insurer	Did the applicant have minimum limits coverage with its prior insurer?	Yes, No, Not Known
Prior Insurer Type	Was the prior insurer a non-standard insurer?	Yes, No, Not Known

Recommendation 2 – Include Additional Elements in the Loss Data Call

As with the underwriting and rating data call, we suggest that the Department use the NAIC Private Passenger Auto Claims SDR 7-15-19 as its template, appending to it those variables in your draft that don't appear in the SDR. Additionally, we believe the loss data call would be more robust and the analysis of unintentional bias more complete if the following two claims investigation related variables were included:

Variable	Definition	Suggested Data Type
Fraud flag	Was the claim flagged for further investigation due to potential fraud?	Binary (1=Yes, 0=No)
SIU Referral	Was the claim referred to the insurer's Special Investigation Unit ?	Binary (1=Yes, 0=No)

Recommendation 3 – Ask Insurers If They Maintain Customer and Prospective Customer Race and Ethnicity Data Anywhere Within Their Company

The Department stated that it will use an analysis known as BISG (Bayesian Improved Surname and Geocoding) to match demographic data to the insurance data collected in this call. While CFA believes that this is a reasonable approach for the analysis, we urge you to ask an additional question of insurers and gather additional data where available, as described here.

The Department should ask insurers to respond to the following question(s):

1. Does any department, division, affiliate, or other entity within your insurance group maintain personally identifiable information about the race, ethnicity, or national origin of customers? (Y/N)
2. If the answer to the above questions is Yes, then responding insurers should be required to include the race, ethnicity, or national origin as known to the company along with the other data provided for each Unique ID pursuant to this data call.

Since auto insurance is required of drivers in the District of Columbia, finding and removing unintentional bias in all aspects of the insurance life cycle are crucial responsibilities of the insurers that sell in the market and the Department that oversees it. Unfortunately, the insurance industry has not appeared willing to be a partner in rooting out unintentional bias during this process. CFA appreciates the Department's commitment to this effort despite industry efforts to delay or divert your work. We hope that insurance companies will agree that ignoring the potential effects of structural racism and unintended bias in their markets is not in their or their

customers' best interests, but in any event we look forward to continuing to work with the Department on this important research and to seeing the results of your investigation.

Thank you again for your work on this issue. Please contact us at mdelong@consumerfed.org with any questions.

Sincerely,

Consumer Federation of America