



August 22, 2022

The Honorable Karima M. Woods, Commissioner
Department of Insurance, Securities & Banking (DISB)
1050 First Street, N.E.;
Suite 801
Washington, DC 20002

**Re: DCIF Comments on July 19, 2022, DISB Request for Comment –
Unintentional Bias in Automobile Insurance**

Dear Commissioner Woods:

The District of Columbia Insurance Federation (DCIF) welcomes this opportunity to provide this submission in response to DISB's July 19, 2022 Request for Comment regarding DISB's proposed review to gather information related to possible unintentional bias in private passenger automobile insurance.

DCIF is particularly appreciative of DISB having made time, following DCIF's outreach, for the previously unplanned, August 5th, Question & Answer session to further clarify the July 19th Request for Comment. DCIF's members and other participants found the content of the August 5th session particularly helpful for better responding to the July 19th Request for Comment. Further, the August 5th session serves as welcome, tangible proof of DISB's sincerity in making certain the proposed review remains fully transparent and cooperative.

As shared during DCIF's June 29th, DISB hearing testimony, through its D.C.-licensed insurer members and its national trade association members, DCIF

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represents the overwhelming majority of insurers who issue private passenger automobile insurance policies in the District of Columbia.

Albeit unclear from DISB's July 19th Request for Comment whether the proposed review applies to insurance producers, DCIF also represents the majority of insurance producers selling private passenger automobile policies in the District of Columbia. Should DISB envision requiring producers to respond to the proposed review, DCIF strongly encourages DISB specifically to detail producers' obligations and provide producers with an opportunity to submit separate input as how most efficiently to supply DISB with responsive, producer-specific data.

DCIF directly associates itself with the comments submitted by our national insurance trade association members. Not wishing to be repetitive of DCIF member submissions, DCIF's present comments are narrowed and focus on the: (i) novelty and potential perils of DISB employing a first-ever collection of "quote" data; (ii) absence of a definition of "unintentional bias" in DISB materials created in advance of the initiation of DISB's proposed review; (iii) benefits of more actively coordinating with D.C.'s sister jurisdictions and the NAIC in developing and carrying out the proposed review.

A brief overview of each of these points, follows:

I. Insurance Application/Quote Data Has Never Been Collected or Studied & Is Inherently Inconsistent as Between Insurers

During DISB's formal and informal sessions regarding the proposed review, both DISB and relevant stakeholders agreed that insurers and producers have never been asked, let alone required, to retain insurance application/quote data. Likewise, there exists no requirement for insurers nor producers to retain application/quote data, prospectively.

To the extent that insurers, for their own business purposes, may collect, maintain, and utilize application/quote data, the lack of any uniform collection and reporting regime increases the likelihood that any collection (particularly the very first such collection) of such data will produce data sets difficult to compare to one another.

Should DISB determine that collection of application/quote data is the only way to achieve DISB's desired outcome, DCIF strongly urges

DISB to take particular care crafting a data collection structure that obviously addresses possible inconsistencies in the data ultimately reported and analyzed.

II. DISB's Proposed Review Does Not Define "Unintentional Bias" and Is Outside Regulators' Normal Authority

Interested parties, both those expressing support for DISB's proposed review and those expressing concern with the parameters of the proposed review identified the absence of an "unintentional bias" definition in the materials provided by DISB, to date. No standard for "unintentional bias" exists within the insurance codes of any U.S. jurisdiction and DCIF concurs with other interested parties that the absence of an "unintentional bias" definition hamstrings DISB's proposed review to an extent that this absence could draw question as to the validity of any data gathered during the proposed review.

As above, DCIF counsels that DISB acknowledge this unusual circumstance and take tangible steps developing a data collection structure, accordingly.

III. DISB's Proposed Review Would Benefit From Further Collaborative Interactions with its Sister Jurisdictions and the NAIC

The District of Columbia is not the only jurisdiction seeking to better understand how Artificial Intelligence, Big Data and algorithms impact residents. Numerous states, federal agencies and foreign governments have an increasingly endless series of initiatives intended to identify and, if need be, address concerns related to how such technological, mathematical developments may harm individuals when applied.

So important has this topic become that the National Association of Insurance Commissioners created its first new "letter" committee in over a decade to focus on these new, complex issues. Chaired by the Insurance Administrator of Maryland, our neighboring state, NAIC's new Innovation, Cybersecurity and Technology (H) has specifically identified for careful

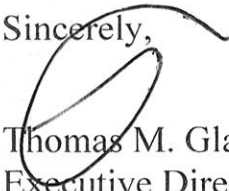
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review and thoughtful public policy development frameworks “that could be used to oversee insurers’ use of consumer and non-insurance data, and models using intelligent algorithms.” DCIF recommends DISB leverage this ongoing work rather than having the District of Columbia “go it alone” now and potentially need to disregard some or all of data collected. The validity of this point is further reinforced by the fact that the District of Columbia is an active, charter member of the (H) Committee.

In addition to the inquiries detailed above, DCIF’s June 29th, DISB hearing submission included a set of threshold questions. Certain of these threshold questions may have been answered unintentionally since DCIF’s June 29th submission; however, DCIF repeats our interest in responses to those questions. To that end, attached as an appendix to this submission are threshold questions to which DCIF recommends DISB respond before moving forward with initiating the proposed review of insurers, producers, and insurance trade associations.

DCIF continues to look forward to working closely with DISB, its outside consultants and other stakeholders throughout the proposed review and beyond.

Sincerely,



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Outstanding Threshold Questions DCIF Recommends DISB Answer before
Finalizing the Proposed Review

1. DISB conducted a Public Hearing called, ‘The State of the Private Passenger Automobile Insurance Market in the District of Columbia’ on March 25, 2019. One of the purposes of this hearing was to cover the use of sophisticated models as the basis for developing rates and rating classifications. In reviewing the DISB website and other documentation, we could not find any report detailing the findings from this Public Hearing. DCIF believes this report would be useful information to provide to O’Neil Risk Consulting and Algorithmic Auditing (ORCAA) as well as the insurance industry and the public. Will DISB provide a copy of this report to DCIF?
2. DISB conducted a Market Conduct Examination (MCE) on four auto insurers with the largest market share in the District of Columbia covering the period as of December 31, 2018. The scope of this examination was to review the use of predictive models for the development of automobile rates and underwriting in the District of Columbia. It appears the insurers received their draft MCE report detailing the Comments and Recommendations from their predictive models but DCIF could not locate an aggregate final MCE detailing a summary of the predictive models used by insurers in the District of

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Columbia marketplace. Will DCIF members receive a copy of the final MCE aggregate report?

3. The insurers who participated in the MCE provided documentation in support of their predictive models and incurred costs in excess of \$100K each on the MCE. Will these insurers be required to participate in the proposed review?
4. It appears from that auto insurers who have submitted premium rate increase requests will be required to provide information in response to the proposed review. If this is accurate, will insurers that do not have pending premium rate requests in SERFF be excluded from the data call process?
5. Insurers usually do not maintain race and ethnicity information on the applicants and policyholders. It appears that this information would be extrapolated by ORCAA from data provided by the insurers. Can DCIF receive information on how the standards or processes ORCAA is planning to use to determine race and ethnicity of insurers' applicants and policyholders.