Transparency of Consumer Information
(C) Working Group

March 28, 2015
Phoenix, AZ
The Transparency and Readability of Consumer Information (C) Working Group met in Washington, DC, Nov. 16, 2014. The following Working Group members participated: Angela Nelson, Chair (MO); Joel Laucher (CA); Peg Brown (CO); George Bradner (CT); James Stephens (IL); Martin Hazen (KS); Ron Henderson (LA); Sandra Castagna (MD); Carla Obiol (NC); and Jana K. Jarrett (OH).

1. **Adopted its Aug. 18 Minutes**

   Mr. Bradner made a motion, seconded by Mr. Hazen, to adopt the Working Group’s Aug. 18 minutes (see NAIC Proceedings – Summer 2014, Property and Casualty Insurance (C) Committee, Attachment Two) minutes). The motion passed.

2. **Heard a Video Presentation on Smart Disclosures**

   The Working Group heard a video presentation on smart disclosures. The recorded presentation was given by Mr. Richard H. Thaler (University of Chicago).

   Mr. Thaler used examples to show that average consumers do not fully read or understand the disclosures companies use today. He proposed a model in which the government uses data that is owned by the public sector and releases the data in open source format. Once the data is released, the private sector finds ways to use the data, consumers are happy, and companies make money.

   Mr. Thaler said that the global positioning system (GPS) originally was a U.S. Department of Defense initiative. The data received from GPS satellites was eventually released to the public and is now a $100 billion per year business that provides substantial benefits to consumers. He said another example is the data collected by the National Weather Service. Originally, it merely provided forecasts, and now it releases all the data it has gathered.

   Mr. Thaler said when data is released, entrepreneurs will use the data to create applications. He said that smart disclosure is the next step. President Barack Obama said the default option, for his administration, will be to release the data that the government collects and, when possible, put the data into a machine-readable format. Similar initiatives exist in the UK.

   Mr. Thaler said there are two domains where smart disclosure is used: 1) the public sector, which releases the data it already has; and 2) the private sector, which is being encouraged or required to disclose data to consumers. Two types of data exist in the private sector: 1) price and attribute information; and 2) personal usage data. Mr. Thaler believes a person should own his or her usage data, but not the inferences made from the data collected. For example, a person would be able to get a list of books he or she purchased from Amazon, but he or she would not receive the formula Amazon uses to predict other books a person might like to read.

   Mr. Thaler said human beings have trouble with complicated things, and the world is getting more complicated. For example, mortgages used to be 30-year fixed, and the federal Truth in Lending Act (TILA) was adequate as interest rates were all reported in the same way. However, currently there are many complicated aspects to mortgages.

   Mr. Thaler used the example of the U.S. Part D prescription drug program. The program was designed with a great deal of choices and competition. Offering many choices will work only as well as people choose. If people make poor choices regarding insurance plans, then having many choices does not do anyone any good. Early studies showed that people were finding it hard to choose a prescription drug program, and studies showed that many people could have saved $300 to $400 a year by picking a better plan.

   Mr. Thaler said complexity has made the “plain English disclosure” impractical. Financial literacy is useful, but not everyone has a Ph.D. in finance. The alternative is to make disclosure easy. Electronic disclosure is an alternative to a plain English
disclosure. Consumers should know how much they are going to pay, and they should have machine-readable access to their own usage data. The data can then be uploaded to websites that are called “choice engines.”

Mr. Thaler said the goals of private sector smart disclosure are to enable consumers to become smarter shoppers, and to create a marketplace that rewards high quality and low prices over obfuscation and deception. He thinks a whole new industry of “choice engines” will be created.

Mr. Thaler said there are some caveats. There is no desire to impose large costs on firms or agencies that are being asked to provide these data, as it is certain that firms will complain that providing this data is costly. However, in most cases, this will not be true. It is important that the regulators do not hinder innovation. If new products are created, the regulator needs to provide a new line of code to include the new product.

Mr. Thaler said services provided by third parties must be fair and unbiased. He said smart disclosures will not serve everyone because not everyone is online; however, the segment of the population that is not online is shrinking. An alternative would be to establish “EZ” information for consumers. For example, there could be three types of standard mortgages, and it would not be required to offer such a mortgage. However, if a mortgage company wanted the EZ label, it would have to adopt a set of rules, similar to a standard form lease. This means all fixed-rate 30-year EZ mortgages would have exactly the same set of terms and would work similar to the way 401(k) plans work today. If consumers do not know a great deal about mortgages, they could choose one of the EZ options. The EZ option is straightforward. If people are more sophisticated, they can use a choice engine to help with a product decision.

Mr. Thaler said he wished mortgage documents would be put into electronic format, where all the terms of the mortgage are in machine-readable format. This data could then be uploaded to a choice engine. Ideally, the choice engine would reline the items in the contract that consumers would want no part of and suggest that they look for a mortgage that does not include the redlined items. Smart disclosures are the modern tool for the modern world.

Mr. Bradner said smart disclosures were a great concept, especially because of the complexity of insurance contracts. He said insurance companies are filing forms that remove items from the contact, and consumers are unaware about what they are actually purchasing. Mr. Bradner said there could be significant differences in coverage or coverage limitations in insurance contracts.

Amy Bach (United Policyholders) said she sees “smart disclosures” being more useful in the health insurance business because more usage data exists in that line of business. She said P/C insurance has less usage data available to use as a basis for making decisions. Ms. Bach said Mr. Thaler is also assuming perfect competition, which does not exist in the P/C insurance industry. She said his point regarding the relining of a mortgage contract to point out clauses consumers may not want to see in their contract was an interesting idea. Ms. Bach said if this could be done with a homeowners insurance contract, there could be many clauses in the contract that consumers might question. She said her concern regarding perfect and imperfect competition is that there may not be another option available to consumers because all the insurance carriers are using the same language. Ms. Bach said that there are entrepreneurs who are starting websites to help consumers choose insurance companies by things other than price.

Ms. Nelson said she thought that this was one of the Working Group’s challenges, and she thinks we are all struggling with how to take the concept of smart disclosures and transform it into something that is more tangible. She said this also makes the concept exciting and that part of the Working Group’s journey is to talk about how things like smart disclosures could be applied to P/C insurance. Ms. Nelson said the policy redlining may not be to simply highlight something consumers may not want to see in a policy, but rather appears because of their input regarding a particular topic.

Mr. Laucher said Mr. Thaler started his presentation by saying, “Data makes life more complex.” Mr. Laucher said this is a valuable idea. He said that when pricing insurance in California, regulators increasingly receive new models. Mr. Laucher said that the more data insurers acquire, the more likely they are to parse and segment their products. He said a commercial insurance package just came through California that was using census data. Mr. Laucher said one of the components was “how many agricultural workers lived within a territory” on a commercial multiple-peril policy, and that was part of the pricing model. He said then Mr. Thaler talked about making things easy. Mr. Laucher said he thinks this is only part of the
process regarding insurance and financial products. He said he thought that the reading needed to be made compelling to consumers and that the messages have to be of value to them.

Mr. Bradner said smart disclosures could help allow consumers to discuss things other than price alone. He said the use of smart disclosures provides an opportunity to allow consumers to compare insurance products to see where they can find the best value. Mr. Bradner said, for example, there could be a non-admitted company versus an admitted company where the non-admitted company’s policy provides actual cash value (ACV) for the replacement cost of a roof, while an admitted company’s policy provides replacement cost value (RCV) for the replacement cost of a roof. He said even in the admitted market, there may be a company that has a 2% wind deductible, while another company has a 5% wind deductible. Mr. Bradner said there are many items that can differ when comparing homeowners insurance policies. He said that value could be brought to the table when consumers are making an important decision regarding their purchase of insurance.

Karrol Kitt (University of Texas Austin) said while the idea was mentioned of redlining the items consumers would not want to see in an insurance contract, it might be more beneficial to “green line” or provide the items to help consumers know what they need to have in their insurance contract.

Birny Birnbaum (Center for Economic Justice—CEJ) said different people will take different things away from the presentation. He said the suggestion to require companies to provide machine-readable data was an important idea. Mr. Birnbaum said if companies were required to provide machine-readable data regarding their rates and charges then it would be relatively easy for an aggregator website to put together an instantaneous comparison between insurance companies. He said the data aspect is critical.

Mr. Birnbaum said the idea of smart disclosures is clearly applicable to all types of insurance products. He said he knows the Working Group is part of the Property and Casualty Insurance (C) Committee, and he would like for the Working Group to let the other NAIC committees know the Working Group is looking at smart disclosures and that based on what the Working Group has found so far, he thinks it could provide help to other NAIC committees as well. Mr. Birnbaum said he follows the Contingent Deferred Annuity (A) Working Group, and this product would be a candidate for using smart disclosures.

Mr. Birnbaum said in terms of moving forward, he suggests taking on a small project first. He said he thinks there is already a charge for the Property and Casualty Insurance (C) Committee to develop a disclosure for title insurance, which is separate from the shopping tool it has developed. Mr. Birnbaum said that might be an opportunity to investigate smart disclosure. He said he thinks the discussion around the table has indicated that perhaps focusing on homeowners coverage would also be a good place to start. Mr. Birnbaum suggested that the Working Group start out small, see what is involved and then expand its efforts.

Ms. Nelson said when one looks at the topic of smart disclosures, it seems overwhelming and so she thought the suggestion to move forward with one tangible deliverable to start with was a good one. She said once the deliverable is completed, then the next step the Working Group could take is to look at that deliverable and see where it could be expanded or inspire other products.

Brenda J. Cude (University of Georgia) said when Mr. Thaler talks about a mortgage labeled EZ, this is the concept financial consumer protection laws refer to as “plain vanilla” mortgages. She said if consumers wanted to buy a more complicated product, they will need to have suitable disclosures to be able to better understand the product. Ms. Cude said if consumers are new buyers of an insurance policy, they may just want a basic insurance policy. She said it is similar to a basic mortgage; experts have looked at the mortgage and said if someone looks at an EZ mortgage and think he or she understands it, he or she probably does. Ms. Cude said there is no trickery in an EZ mortgage, and it does not contain anything complicated. She said insurers could continue to be innovative in writing policies while still designating a policy as a plain vanilla policy.

Ms. Cude said government’s role in smart disclosures is to require that data be available. She suggested the Working Group bring in some entrepreneurs to help identify the types of things they would be able to do if they were provided with specific data. Ms. Cude said that at the federal level, some of the agencies have actually held competitions and received some ideas that showed what types of ideas are applicable using specific types of data.
Ms. Nelson said that she agreed that there could be an EZ policy, which was the basic policy, and additional coverages could be added to the EZ policy.

Annalise Mannix (Fair Insurance Rates in Monroe—FIRM) said she had just listened to a presentation at the Casualty Actuarial and Statistical (C) Task Force meeting regarding price optimization and how it may violate the non-excessive, non-discriminatory rate filing policies. She said the discussion included the way that rates were developed and the elements that were controllable for consumers. Ms. Mannix said, for example, an auto policy rate may be based on a person’s job, neighborhood, age, vehicle insured, driver history, etc. She said price optimization may now be willing to pay. Ms. Mannix said many consumers do not know they have choices, and they do not know much about how a policy price is developed. As a result, she said consumers do not know the things they can and cannot control. Ms. Mannix said one of the things that she thought might be helpful to a policyholder is to know what goes into the ratemaking formula. She said consumers might decide to live in a neighborhood that is charged less for insurance than another nearby neighborhood. Ms. Mannix said these types of things would be simple to disclose and helpful to consumers.

Sara Robben (NAIC) summarized some articles regarding smart disclosures. She said disclosures are required for many products and are often lengthy and difficult to understand. Ms. Robben said it is fundamentally difficult to explain a complex idea. She said shopping and comparing products is often not an easy task, and consumers usually will pick the first choice available rather than exploring other available options. Ms. Robben said the gist of smart disclosures is to take pieces of data that are already required to be disclosed and make the information public and machine-readable. She said that both government-owned and privately owned companies are increasingly making disclosures available in machine-readable formats. Ms. Robben said this, in turn, spurs the growth of “choice engines.” She said “choice engines” help consumers make sensible decisions, and technology offers an opportunity to provide accessible data to make the use of choice engines easier. Ms. Robben said when firms are required to disclose things, they sometimes discover vulnerabilities about themselves that can be remedied. She said, for example, if a company happens to get a poor mark in a particular area, board members could then make changes to remedy these poor marks.

Ms. Robben said many government agencies have released “high-value data sets.” She said examples of these data sets include the U.S. Food and Drug Administration recalls, U.S. Department of State travel warnings, and airport on-time performance reports. She said there are many available opportunities existing for the use of choice engines for health care, finance, energy, education and other sectors.

Ms. Robben said that potential gains to businesses and consumers will come about, in part, due to the increasing difficulty in making knowledgeable decisions regarding complicated products and services. She said even subtle changes in how information is presented can have a significant impact on the way people process and act on information. Ms. Robben said a good comparison is Netflix and how that service helps consumers make a choice regarding the movies they want to watch. She said other “choice engines” can help to make decisions with much higher stakes. Ms. Robben said the burden of understanding the meaning of disclosure is left to consumers in many cases. She said when people are in the process of making choices, they are influenced by superficial things, they procrastinate, and they fail to read the small print.

Ms. Robben said the goal of a good electronic disclosure regime is to ensure consumers know what they are getting as well as to be able to compare products. She said the better consumers can understand the features and prices of products and services they buy, the less chance exists that regulators need to interfere.

Ms. Robben said smart disclosures fall into four broad categories: 1) the government release of the data it collects on products and services; 2) the government release to individuals of their personal data, such as Social Security contributions and tax returns; 3) government-facilitated electronic disclosure by private sector companies of price or attribute data on products and services; and 4) government-facilitated release to consumers of personal data held by companies providing products or services. She said a possible outcome of an effective use of choice engines would be to allow consumers to search for things such as mortgages as easily as they search for airline tickets. Ms. Robben said successes have occurred in the first two categories.

Ms. Robben said real breakthroughs come when entrepreneurs find innovative ways to package and use government data. She said application developers are quick to launch products. Ms. Robben said that once data is disclosed by private
companies, applications will be created by entrepreneurs. She said these were the high-level takeaways from the articles; however, the article links have been provided in the materials for those wanting to read the actual articles.

Ms. Nelson said GovLab is a project that was created in 2012 through the Wagner School of Public Service at New York University. She said the funding for this project is provided through the John D. and Katherine T. MacArthur Foundation and The McKnight Foundation. Ms. Nelson said the goal of GovLab is to reinvent public governance by embracing collaboration with private industry and technology. She said there were four primary items that GovLab is focusing on in its research, which include: 1) the building of a research network; 2) the creation of an observatory, where it can monitor and study how businesses interact with government; 3) an academy, where it is focusing on teaching people best practices on how to improve public governance; and 4) the creation of what it calls living labs.

Ms. Nelson said as a result of creating living labs, GovLab produced what is named Open Data 500. She said it is the first comprehensive study of U.S. companies that use open government data to provide new business and develop new products and services. Ms. Nelson said the four research objectives included: 1) providing a basis to assess the economic value of government data; 2) encouraging the development of new open data sources; and 3) fostering dialogue between government and business regarding how government data can be made more useful. She said the link to the Open Data 500 website is www.opendata500.com. Ms. Nelson said Open Data 500 has catalogued all of the government agencies in existence. She said all of the federal agencies can be viewed, and each sector can be clicked on to see which industry is getting data from which federal agency. Ms. Nelson said the insurance industry is pulling data from the U.S. Department of Commerce and the U.S. Department of Health & Human Services (HHS). She said a list of the specific government agencies, the nonprofits and the private companies that are signed up with this project can all be viewed. Ms. Nelson said there, the insurance industry has good representation.

Ms. Nelson said Open Data 500 has had roundtable discussions with the Department of Commerce. She said it was a full-day event that was attended by 20 federal agencies, as well as 20 companies and nonprofits. Ms. Nelson said they discussed the issue of open data and ways that the government should be more responsive. She said they compiled a report, which can be found on their website, and found seven key areas that the group felt that the U.S. Department of Commerce could use to further develop its own data strategy.

Ms. Nelson said the overriding theme of the roundtable was that government has a responsibility to make data more relevant, more accessible and more actionable. She said these goals are in addition to the goal of making data available in priority areas, where, for instance, the government may collect documents but is not necessarily extracting data from it.

Ms. Nelson said that discoverability and findability was one of the areas of focus. She said there were several suggestions the roundtable gave to the Department of Commerce to consider implementing. Ms. Nelson said one of these suggestions was to create a site map of locations of data sets instead of creating a single site to hold all government data. She said the roundtable said it was important for the Department of Commerce to include the context and documentation for each data set. Ms. Nelson said information regarding who owned that data set should be provided. Ms. Nelson said one of the key items the roundtable told the Department of Commerce was that it needed to improve the search functionality of its data.

Ms. Nelson said the roundtable suggested the government put forth additional resources to ensure that all of the data is available through an Application Programming Interface (API). She said that when data sets are made available to consumers on a website, data visualization tools should be included. Ms. Nelson said they suggested the government invest in the technology to provide fast download speeds for the available data. She said one of the key recommendations was to move data from the paper-based format to digital and text-searchable formats. Ms. Nelson said older documents can be updated to a digital format, at which time data can be extracted from the document.

Ms. Nelson said data quality was another area of the roundtable’s focus. She said the roundtable advised the Department of Commerce to publish its data at a more granular geographic level, not just a countrywide level. Ms. Nelson said the roundtable also discussed the fact that data should be validated, and software should be used to identify errors. She said once data is released, people could use the data, analyze the data, and identify errors. Ms. Nelson said it was necessary to provide users the means by which to notify the agency of errors.
Ms. Nelson said the roundtable also focused on data collection and data sharing. She said before data is made available, the Department of Commerce needs to identify the information. Ms. Nelson said the roundtable focused on finding new ways to collect data, ways to engage businesses to collect their own data and how to share that data. She said the roundtable discussed how to mix businesses’ private data with government data to make sure the data is responsive. Ms. Nelson said the roundtable also discussed the need to ensure that people using different computer systems can access the data. She said there was also discussion regarding the inclusion of definitions and tools to make data more easily accessible. Ms. Nelson said the roundtable additionally discussed the private and public partnership in making this information available via the cloud.

Ms. Nelson said the roundtable discussed looking to the private sector for opportunities to make new partnerships enabling them to reach larger audiences. She said the concept that the Working Group has heard over and over during the meeting is government makes the data available, the data goes to the private industry, private industry takes the data and creates the applications and the programs to actually use the data, and provides it to consumers.

Ms. Nelson said the last point the roundtable discussed was to focus on the fact that data users are the data customers. She said mechanisms need to be put in place to identify who the users are, how do they use the data and what are their needs for different data sets. Ms. Nelson said the process will continually need to be reviewed. She said the roundtable also suggested communicating with users on the website to solicit their feedback regarding their usage, as the users will respond regarding functionality. Ms. Nelson said the roundtable also suggested moderating social media to see how users are using data. She said the roundtable strongly encourages government agencies to encourage users of data to clearly disclose the data was obtained from the Department of Commerce. Ms. Nelson said this was a bit of a marketing ploy to make sure that people referred back to the Department of Commerce for other data they may need. She said they actually encouraged the creation of a data sharing counsel among government agencies so that agencies can talk about the various pieces of data each agency produced and how that information can be shared and combined.

3. Discussed Other Matters

Ms. Nelson said that there are still many experts the Working Group has not heard from regarding smart disclosures. She said she thinks it would behoove the Working Group to continue to reach out to some of these individuals to speak to the Working Group. Ms. Nelson said she thinks getting some of the third-party vendors in to talk to the Working Group regarding the types of things they do with data is a good idea. She said she also has an interest in talking to people at the Department of Commerce from a governmental entity standpoint to find out what it has gone through, its challenges, best practices, etc.

Ms. Nelson said the Working Group will continue to study the topic and will look for people to come to its meetings at the Spring National Meeting to further discuss smart disclosures.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.
Discuss Referral from the Sharing Economy
(C) Working Group
To: Angela Nelson, Chair, Transparency and Readability (C) Working Group  
From: Commissioner Jones, Chair, Sharing Economy (C) Working Group  
Date: February 17, 2015  
Re: Update to Consumer Products Relative to Sharing Economy

The Sharing Economy (C) Working Group is interested in public outreach and education regarding sharing activities and seeks to inform consumers and the public of coverage issues relative to sharing services. The Sharing Economy (C) Working Group recommends that the Transparency and Readability (C) Working Group consider updating the **NAIC Consumer Shopping Tool for Auto Insurance** and **A Consumer’s Guide to Auto Insurance** regarding car and ride-sharing as well as the **NAIC Consumer Shopping Tool for Homeowners Insurance** and **A Consumer’s Guide to Home Insurance** regarding home sharing.

The NAIC has published two consumer alerts regarding ride-sharing, one directed to drivers and a second directed to passengers. Several states have sent out bulletins or public service announcements regarding sharing activities. A list of links to state releases regarding ride-sharing can be found on the NAIC Sharing Economy (C) Working Group webpage at [http://www.naic.org/committees_c_sharing_econ_wg.htm/](http://www.naic.org/committees_c_sharing_econ_wg.htm/). The Working Group is currently developing a white paper regarding commercial ride-sharing to address coverage issues and provide potential solutions for state and municipal regulators, legislators, consumers and the general public. The draft was exposed for public comment in mid-January with comments due February 20. The Working Group will begin development of a white paper regarding home sharing later this year.

cc: Sara Robben (NAIC)  
    Jennifer Gardner (NAIC)
Hear a Presentation Regarding Smart Disclosures
Any Other Matters