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before the
NAIC Property and Casualty Insurance (C) Committee and Market Regulation and Consumer Affairs (D) Committee
Auto Insurance (C/D) Study Group

"Insurance Research Council's 'Affordability Report'"

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The IRC report is not serious research but rather is a propaganda piece – not even thinly-disguised – for deregulation that has zero relevant information for this group's charge of examining the availability and affordability of insurance for low- and moderate-income consumers ("LMI"). Simply stated, it provides no information on what low- and moderate-income auto consumers are charged for auto insurance and how the prices charged for these consumers relate to the resources available to these consumers.

The report continues the industry's obfuscation of the issue of availability and affordability by continuing to reference averages unrelated to specific groups and sub-state geographic regions. Using the industry methodology would lead to the conclusion that flood insurance is affordable, yet the study required by Congress and common sense requires a granular analysis that looks at affordability of particular communities – not nationwide or statewide aggregates.

The IRC report highlights the need for this Working Group to collect more granular data to evaluate affordability and availability issues, your primary charge and reason for existence. The IRC report is a vivid

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Mr. Birnbaum has studied affordability and availability of auto insurance for over two decades. As Chief Economist for the Texas Office of Public Insurance Counsel, he performed the first study of availability and affordability of auto insurance in low-income communities. As Chief Economist at the Texas Department of Insurance, he oversaw the creation of a data collection system to monitor availability and affordability of auto insurance on an ongoing basis. Since leaving the Texas Department, he has performed numerous additional studies of insurance availability and affordability of auto and other lines of insurance.

example of the failure of high-level summary data to answer the relevant questions of possible price discrimination and unaffordability of only a part – the LMI – of the overall population IRC studied. Because the data the industry is willing to provide cannot answer the relevant questions, the industry seeks to change the questions and change the topic to regulation regimes and benefit levels. Industry desperately seeks to change the debate by changing the topic to any issue other than the distributional impacts of their auto insurance sales and pricing practices on LMI consumers. Industry also puts forth a host of straw men arguments – no consumer group is suggesting subsidized auto rates or radical departures from risk-based pricing. The prohibition of certain rating factors that unfairly discriminate against the LMI does not equate to an absence of risk-based pricing – just as a prohibition against the use race, religion or national origin did not sentence the industry to community rating.

The IRC report's measure of affordability – overall NAIC "average expenditure" to median income – is simply not an analysis of affordability for low- and moderate-income consumers because it does not match what that group of consumers pay to the resources available to that group of consumers.

Further, the use of "average expenditure" skews results because of how the NAIC calculates average expenditure – the sum of all liability, collision and comprehensive premiums divided by liability written exposures. Low- and moderate-income Americans usually own older cars and do not carry collision and comprehensive coverages except when the car is financed and the lender requires it. Consequently, if the number of low-income consumers purchasing collision and comprehensive declined over time – because of aging vehicles due to the Great Recession or affordability problems – the average expenditure might decline even though affordability was worsening. But the IRC does not know if that is the case since their "study" does not look at low- and moderate-income drivers.

The 25th percentile IRC uses for its analysis is not representative of all low-income drivers. At the 25th percentile, 25% of consumers have lower incomes. Moreover, the IRC analysis did not even use 25th percentile by state, but only nationwide. This combines higher- and lower-income states, skewing the median figures for any state.

More important, even if 25th percentile median income was available at the state level, it does not match what low- and moderate-income consumers pay for auto insurance.

Another reason the IRC approach fails is by examining median income as opposed to more granular income distributions. Over the past 20 years, income growth has been concentrated in the most affluent consumers and has been stagnant in the lower-income groups. The preeminent researchers on changes in income Saez and Piketty report that the top 10% of income earners' share of income went from 40% to over 50% from 1992 to 2012. From 1993 to 2012, the top 1% captured 68% of all income growth. In the 2009 to 2012 recovery, that figure was 95% of income growth.

Income inequality has worsened significantly in the US – meaning the poor are poorer and affluent are more affluent. In theory, insurers should be income-blind and focus on risk factors. Yet, insurers are part of the inequality problem by charging lower income consumers more because of their income by using a variety of proxies for income such as education, occupation, break in coverage, garaging, credit score and other inappropriate, non-driving-related factors.

The issue before the NAIC is how is this group of consumers being treated by insurers – and the IRC report offers nothing to assist the group in answering that question. Nor does it answer the more fundamental question before this Working Group, how many of the LMI simply cannot afford the minimum auto insurance the states require them to purchase?

There are other specific and glaring errors. The analysis fails to utilize factors clearly associated with auto expenditures – size of the state, state population and, most important, population density. Some of the IRC analysis factors are simply proxies for these characteristics.

The IRC selection of time periods for analysis is also arbitrary. If the analysis started in 1999 instead of 1991, the result would have been either no change or a worsening in "affordability" as shown by the average expenditures in Figures 4 and 5 of the report.

We note that in Figure 6 – states with greatest improvement in affordability – two of these six states are California and Massachusetts, which have more rigorous rate regulation than most states and also ban credit scoring.

The IRC study confuses correlation with causation and then reverses causation. Higher premiums are not a result of greater regulation – see California, the only state where prices have fallen over the past twenty years – but greater regulation is a response to higher premiums

that demand legislative action.

There are other methodological problems with the report, but the bottom line is that the IRC effort fails to provide any information relevant to the questions before the working group and continues the industry effort to change the debate from availability and affordability of auto insurance for low- and moderate-income consumers to deregulation and tort reform. We hope the working group will not lose sight of their charge despite the industry efforts to divert you from your charge.