



November 1, 2021

NAIC Privacy Protections (D) Working Group
NAIC Central Office
1100 Walnut Street
Suite 1500
Kansas City, MO 64106

Attn: Lois Alexander, NAIC Market Regulation Manager
Via email: lalexander@naic.org

Dear Chair Amann, Vice Chair Kreiter and Members of the Privacy Protections Working Group:

Thank you very much for the continued opportunity to provide comments on your ongoing review of past and current consumer privacy frameworks. We very much appreciate the extensive work that the NAIC Privacy Protections Working Group is doing to develop their Privacy Policy Statement. ACLI appreciates this opportunity to participate in the process, as our members are deeply engaged.

As mentioned, we are proud that the insurance industry has long been a consumer privacy leader in adhering to clear obligations in the appropriate collection, use, and sharing of personal information. Keeping our policyholders' personal information private and protected is at the core of what we do. Life insurers believe it is important for consumers to have certain rights with respect to personal information that companies maintain about them. At the same time, companies need the ability to maintain and process such personal information to provide consumers with the products and services they request, as well as to ensure the accuracy and integrity of information they use and to comply with applicable laws and regulations.

We respectfully submit the following thoughts to the Working Group on the "Right of Data Portability" provisions of the Privacy Policy Statement.

Right of Data Portability

The Right of Data Portability is being addressed by emerging state comprehensive privacy laws. For instance, the Virginia Consumer Data Protection Act provides consumers the right to "obtain a copy of the consumer's personal data that the consumer previously provided to the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means." (59.1-573(A)(4)) The Colorado Privacy Act provides that "a consumer has the right to obtain the personal data in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another entity without hindrance. A consumer may exercise this right no more than two times per calendar year. Nothing in this subsection (1)(e) requires

a controller to provide the data to the consumer in a manner that would disclose the controller's trade secrets." (6-1-1306(E))

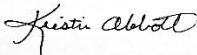
We support a consumer's right to request a copy of certain personally identifiable information insurers collect from him/her and to provide the requested information in a useable format requested by the consumer, if technically feasible. In our experience, the vast majority of life insurance applicants and customers who exercise their right to access specifically request their copy in hard copy format for ease of reading, copying, and safekeeping. For those seeking a copy in electronic format, Adobe PDF and Microsoft Word files are the most common formats requested. We know of little to no demand from consumers for data portability in the life insurance context, nor of any requests from customers to ask their insurer to transfer the customers' personal information in a machine-readable format directly to another insurer. This is mainly because most insurance products are underwritten, different insurers often have different acceptance criteria so the data one insurer requests from applicants or evaluates is not the same as the other insurer, and customers want to maintain control over and decide what information they want to provide to another insurer.

Given the lack of demand or any direct practical benefit to consumers, we are very concerned with the costs and significant security risks to try to implement or support a broad data portability right without certain exceptions. We recommend the Working Group take this into account if considering recommendations on the Right of Data Portability.


Conclusion

Thank you for your continued consideration of our comments. We look forward to continuing to collaborate with the Working Group as we move through this review process.

Sincerely,



Kristin Abbott
Counsel



Shelby Schoensee
Associate Counsel