

November 16, 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 Lois:

I hope this submission is not too late to be considered by the Privacy Protections Work Group on its November 22nd call. I am simply suggesting it does not make sense to try to determine who “owns” personal data held by insurance companies. My reasoning is explained below.

Ownership of personal data is a controversial subject that has not been directly addressed by laws and regulations in the U.S. or abroad. Jurcys et. al. wrote in the Harvard Journal of Law & Technology “data protection laws currently do not allocate ownership of personal data to any subject. There is also no other legal principle or theory that would per se justify the allocation of exclusive property rights over data.”¹

In the absence of such ownership rights, the relevant issue for the Privacy Protection Work Group revolves around access. Whoever holds data in question has access and can use it and give access to others. Thus issues regarding ownership of personal information held by insurers should revolve around the following questions individually:

- What data should they collect? – data minimization
- How should they use it? – prohibited or discriminatory uses
- How long should they keep it?– data retention, consumer requests to delete
- How should they keep it accurate and up-to-date? – consumer challenges to accuracy
- Who can they share it with? – consumer access, sharing or selling to third parties
- Data security – protecting it from illegal access.

Most of these issues have been or will be discussed during Work Group calls. I suggest that we focus on them and forgo a discussion of “ownership” of personal information.

Best regards,



Harold Ting, PhD
NAIC Consumer Representative

¹ Paul Jurcys, Chris Donewald, Jure Globocnik, Markus Lampinen, “My Data, My Terms: A Proposal for Data Use Licenses”, Harvard Journal of Law & Technology, Vol. 30, Digest Spring 2020, p.5.