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Comments from the Center for Economic Justice

To the NAIC MCAS Blanks Working Group Regarding

Travel Insurance MCAS and False Industry Claims about Transaction Reporting

November 3, 2020

CEJ writes to suggest a method for developing the Travel Insurance MCAS and to respond to the inaccuracies in the UStiA and APCIA letters about transaction data reporting. In addition, we pose the question why industry trades are opposed to improvements in MCAS data collection that will materially benefit their member insurers.

Procedure for Developing Travel Insurance MCAS

We suggest starting with questions and decisions about the *information* that regulators need for meaningful market analysis – as opposed to starting with discussion of *data elements*. The decisions regarding *information* needed by regulators will guide the *data required to provide that information* and will inform the appropriate data elements and method of reporting – e.g. summary or transaction.

Based on the above, we suggest starting with questions about what *information* regulators need as opposed to starting with the industry template. By starting with the industry template, the discussion inevitably conflates *information needs* with *data elements.* By starting with answers to the questions below – and other questions/issues identified by regulators and stakeholders – there will be a common understanding of what *information* the MCAS data should be able to generate and the needed data elements will emerge from the regulators' decisions about the *information* needed.

Questions Regarding Regulators' Needs

1. Do you want to be able to analyze sales, claims, lawsuit and complaint outcomes separately for individual versus group (excluding blanket) versus blanket policies?

2. Do you want to be able to analyze sales, claims, lawsuit and complaint outcomes separately for different types of sellers – insurer direct, travel agencies, travel retailers, online agencies, other?

3. Do you want to be able to analyze sales, claims, lawsuit and complaint outcomes separately for different types of products – domestic versus international; single trip versus multi-trip?

4. Do you want to be able to analyze sales, claims, lawsuit and complaint outcomes by type of travel retailer – airline, cruise, train, human travel agency, online travel agency?

5. Do you want to be able to analyze sales, claims, lawsuit and complaint outcomes by type of coverage – primary vs. excess?

6. Do you want to be able to analyze sales, claims, lawsuit and complaint outcomes by type of coverage – trip interruption, trip delay, baggage delay, lost baggage, medical, repatriation, car rental, etc?

7. Do you want to be able to analyze sales, claims, lawsuit and complaint outcomes across multiple dimensions – e.g. primary vs. excess by type of coverage (trip interruption, etc.) by type of seller?

8. Do you want to be able to analyze sales, claims, lawsuit and complaint data for specific travel retailers or travel sellers (e.g. Delta Airlines vs. United Airlines vs. Insuremytrp.com vs. Expedia.com vs. Royal Caribbean Cruise vs. Carnival Cruise vs. Squaremoth.com etc.?)

9. Do you want to be able to analyze sales outcomes by reason for cancellation? If so, for what reasons?

10. Do you want to be able to analyze refund requests and outcomes of those requests?

11. Do you want to be able to analyze claim closed by time from filing to settlement?

12. Do you want to be able to analyze claim denials/claims closed without payment by reasons for denial/closed without payment? If so, for what reasons?

13. Do you want to be able to analyze premium in relation to total costs for travel protection?

14. Do you want to identify MGAs, TPAa and Travel Administrators (per model act) used by insurers?

15. Do you want to analyze sales, claims, lawsuit and complaint outcomes by different MGA, TPA and Travel Administrator?

16. Do you want to analyze sales, claims, lawsuit and complaint outcomes by group?

17. Do you want to know how many covered lives there are under group and blanket policies?

Response to UStiA and APCIA Inaccuracies: Why Are the Trade Associations Opposed to Data Collection That Benefits Insurers, Regulators and Consumers?

In reviewing the latest industry opposition to market regulation data collection, generally, and to more granular data collection, specifically, it is clear that the trade associations are not working in the interests of their member insurers and producers, let alone the interests of regulators and consumers.

Role of MCAS

Industry continues to argue that the purpose of MCAS is simply to identify outliers as part of a continuum of ever-greater and more detailed scrutiny into the consumer outcomes of an insurer.[1] MCAS data should be summary, they argue, because identification of outliers is only the first step in digging deeper into the causes of the outlier – a process that requires repeated interactions with insurers for more explanation and more data.

Yet, industry admits that the role of MCAS is "to provide regulators a uniform mechanism to collect market conduct-related information about all relevant companies to determine whether closer review of any individual company is warranted."[2]

[1] See UStiA letter of October 19, 2020, for example, at pages 2 - 3
[2] UStiA letter at page 2.

The obvious question, then, is why would industry oppose the more granular data collection that would enable regulators to more accurately and efficiently identify potential market or company problems?

The market regulation methodology argued by industry – highly summarized data to identify outliers followed by ongoing interaction to learn if there is a problem – is the complete opposite of how industry conducts their business in an era of Big Data. Do we see insurers asking consumers a few general questions at the time of application and then follow up multiple times to get the relevant and complete information needed to underwrite or price a policy or to settle a claim? Of course not – just the opposite. Insurers tap massive data bases of granular consumer information to avoid multiple interactions with consumers and to more accurately underwrite or price a policy or settle a claim.

So, again, the question arises – why are the trades opposing a market data collection system that better enables regulators – greater accuracy and fewer false positives – to identify market problems, that reduces the interactions between regulators and insurers, that reduces the need for special data calls, that better targets any regulatory action and thereby, lowers the cost of regulation for insurers? Why does industry insist that regulators use a 2005 technology in 2020 while insurers are constantly utilizing more and more granular data for all aspects of their operations?

Industry's position on MCAS data collection represents a fundamental contradiction with industry's ongoing complaints about the cost and extent of market conduct examinations. Why would industry oppose the type of data collection that reduces the need for or scope – and cost – of market conduct examinations? Why would the majority of insurers who treat consumers fairly and who produce good consumer outcomes object to a more-granular MCAS data collection that focuses regulatory attention on the insurers treating consumers poorly?

Data Collection is used for Market Analysis – MCAS Is Not a Market Conduct Examination

In addition to the fundamental contradiction, UStiA and APCIA make a number of demonstrably false arguments.

UStiA argues that a proposal for transaction-detail for MCAS "is unprecedented" and "would subject every travel insurance company to an annual market conduct examination through the MCAS process, imposing a significant economic and resource burden on all travel insurance companies."[3]

[3] See UStiA at page 3.

First, transaction data reporting is not "unprecedented." Personal lines insurers reporting experience to the Insurance Services Office have been reporting transaction data for decades. The Texas Department of Insurance developed statistical plans for personal and commercial lines of property casualty insurance **in 1995** requiring transaction reporting. Workers' compensation data collection has historically been transaction reporting. Much financial reporting – particularly regarding investments – has been transaction reporting. Principles-based reserving data collection is transaction reporting. Other financial service companies have reported transaction data for decades to their regulators, including, for example, Home Mortgage Disclosure Act data reporting.

What is really unprecedented is the fact that regulatory data collection for market analysis has not materially improved since its origins 15 years ago.

Second, more granular data collection for more granular market analysis is still market analysis. It is not a market conduct examination as one can easily see by a review of the Market Conduct Examination sections of the Market Regulation Handbook. Transaction data reporting simply and efficiently permits more accurate and cost-effective market analysis. It does not involve reviews of individual sales or claims, for example.

False Claims about Industry or NAIC Burden

Industry arguments against transaction reporting typically claim "burden" on insurers. The UStiA letter is an example. Yet, this is a false claim and belies a lack of understanding of data reporting. In fact, if there is any difference in burden on insurers between summary and transaction reporting, it is the summary reporting that poses the higher burden on insurers.

Insurers maintain data on sales and claims in data bases or data pools. These data pools include data for each sales and claim transaction. Whenever someone – management, company actuaries, regulators – want information, the company IT people have to extract that information from the data bases. This involves writing a program or report to extract the relevant information – regardless of whether that information is a high-level summary or more detailed information.

In terms of producing a summary-type or transaction-type MCAS report, the insurance company IT folks have to write a program to extract and compile the relevant data. At this point, there is little or no difference.

But, the advantages of transaction reporting soon emerge. With transaction reporting, the insurer can more easily spot data errors and has greater ability to evaluate the accuracy and completeness of the data report. In contrast, once the data are highly summarized – as in current MCAS reporting – the insurer loses the ability to spot data anomalies that may be hidden by aggregation. This data quality advantage of transaction reporting was confirmed in the recent presentation by NAIC IT folks at the Market Conduct Annual Statement Blanks Working Group conference call.

Once the program to extract the required data to be reported for MCAS is complete and data quality checks are established, each subsequent MCAS report after the initial report requires running these data extraction and data quality programs – an automated process. Again, no difference between summary and transaction reporting other than the greater opportunities to identify data errors and errors in the data extraction / compilation programs.

But, then, the efficiencies of transaction reporting reduce the burdens on insurers through fewer interactions with regulators about "anomalies" that are actually data reporting errors or questions about "anomalies" that are simply a product of different mixes of business skewing the aggregate results.

Transaction data reporting reduces the reporting burden on insurers directly – lower costs to report transaction data – and indirectly – fewer regulatory interactions and fewer special data calls.