Dear Director Lindley-Myers and Mr. Mullen,

As requested during last week's D Committee call, this e-mail provides a written record of the comments I made during the call regarding the new D Committee charge regarding privacy protections.

During the call, Ms. McAdam reviewed NAIC consumer data privacy models and recent state legislation and legislative proposals related to consumer digital rights. Ms. McAdam discussed the NAIC Insurance Information and Privacy Model Act and the NAIC Privacy of Consumer Financial and Health Information Model Regulation. The NAIC model act addresses "personal information," while the model regulation address "nonpublic personal financial information" and nonpublic personal health information." Both models discuss "consumer reports" and "consumer reporting agencies" as defined by the federal Fair Credit Reporting agencies.

We ask the new privacy working group to consider the following:

1. Data vendors are scraping personal consumer information from public sources to produce consumer profiles, scores and other tools for insurers. The data vendor products, while assembled from public information, raise concerns over consumers' digital rights and privacy.

2. Many data vendors and many types of personal consumer information are not subject to FCRA consumer protections. In turn, many of the types of data and algorithms (essentially, a consumer report) used by insurers are not subject to either FCRA consumer protections or the NAIC model law protections.

3. It is unclear if the NAIC models cover the new types of data being generated by consumers as part of, or related to, insurance transactions. For example, consumers are producing large volumes of data through telematics programs -- from devices collecting personal consumer data in the vehicle or home or wearable devices.

4. There are a number of organizations working on consumer digital rights. We ask the new WG to solicit input and presentations at WG meetings from, among others, Center for Digital Democracy, Electronic Privacy Information Center, Electronic Frontier Foundation, Public Knowledge, Privacy Rights Clearinghouse, Public Citizen, US PIRG and World Privacy Forum. In addition, there are a number of organizations active on digital rights in the EU who are familiar with the General Data Protection Regulation and whose perspectives would help the working group.

email sent 10-07-19 to Tim and Chlora