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STATE OF CALIFORNIA

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DEPARTMENT OF INSURANCE

3

4 PAY-DRIVE (USAGE-BASED AUTO INSURANCE)

5 FILE NO. REG-2008-00020

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PUBLIC HEARING

17

SAN FRANCISCO, CALIFORNIA

18

OCTOBER 20, 2008

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25 REPORTED BY: MICHAEL CUNDY, CSR 12271

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1 PUBLIC HEARING, taken at 455 Golden Gate,
2 San Francisco, California, on Monday, October 20, 2008, at
3 10:05 A.M., before Michael Cundy, Certified Shorthand
4 Reporter, in and for the State of California.

5

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20 LIST OF SPEAKERS:

21 BETH GIVENS

22 CHRISTOPHER GAY

23 DOROTHY GLANCY

24 SAM SORICH

25 REX FRAZIER

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1 APPEARANCES:

2 LIST OF SPEAKERS:

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4 CARMEN BALBER

5 LAURA NOVARRO

6 DEBORAH PIERCE

7 GLENN CONNELLY

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1 SAN FRANCISCO, CALIFORNIA; MONDAY, OCTOBER 20, 2008

2 10:05 O'CLOCK A.M.

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5 MR. GOODELL: Hello, everybody. It's a little
6 after 10:00 o'clock in the morning on Monday, October 20,
7 2008.

8 I'm Dan Gooddell, staff counsel with California
9 Department of Insurance, Rate Enforcement Bureau.

10 On my left is Joel Laucher, the chief of Market
11 Conduct Division, and next to Joel is Mike Riordan, also
12 staff counsel with the Rate Enforcement Bureau, Department
13 of Insurance.

14 This hearing is about a proposed regulation
15 entitled "Pay-Drive, Usage-Based Auto Insurance," file
16 number for the regulation is REG-2008-00020.

17 Everyone present, with the exception of law
18 students who are just visiting, should be signed in at the
19 table over here. If you are not signed in, please do so,
20 and if you haven't indicated whether you want to speak --
21 well, let me just say, if you have indicated that you want
22 to speak, I have your name. If you haven't and you want to
23 speak, please indicate so at the table.

24 By way of background, the California Insurance
25 Code Section 1861.02(a), added by Proposition 103, provides

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1 that rates and premiums for an automobile insurance policy
2 shall be determined by applying three mandatory auto rating
3 factors and various optional rating factors. The number of
4 miles the insured drives annually is the second mandatory
5 factor. The auto rating factors are currently implemented
6 by California Code of Regulations Section 2632.5 and second
7 mandatory factor is currently implemented by section
8 2632.5(c)(2).

9 These regulations will amend Section 2632.5, and
10 they are intended to improve the correlation between the
11 automobile insurance premiums and the actual number of
12 miles an insured drives in a period of time pursuant to the
13 second mandatory rating factor.

14 The proposed regulation was published in the
15 California Public Notice Register on Friday, September 7th,
16 45 days ago.

17 The notice invited members of the public to attend
18 this hearing and invited interested persons to submit
19 written comments about the proposed regulations through the
20 close of business today.

21 If you have written comments that you would like
22 to submit, please bring them to the panel at any time
23 before the close of this hearing or bring them -- leave
24 them at the table with Sarah over there.

25 The purpose of the hearing is to provide members

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1 of the public an opportunity to speak to us and tell us
2 what your views are about these regulations and hopefully
3 to provide us with constructive comment.

4 If you have things to say that are not included in
5 your written comments or if you simply wish to highlight
6 certain key points that are in your written comments, you
7 are invited to do so today.

8 The department will review, summarize, and respond
9 to all comments that are submitted with regard to this
10 regulation. Therefore, if you are submitting written
11 comments, there is no point in reading those comments to us
12 today. In fact, we specifically ask you not to read your
13 written comments, and if you do, we may stop you.

14 Based in part on the written and oral comments
15 submitted, the commissioner may amend these regulations.

16 If the commissioner amends the regulations, he
17 will provide notice to everyone who has expressed interest,
18 including everybody here today, and if the amendments are
19 within the scope of the original notice, an additional 15
20 days' public notice will be provided for you to provide
21 comments on the changes.

22 There is no audio recording being made of this
23 proceeding. However, we do have a court reporter, who is
24 taking down everything that I say and that anyone else says
25 publicly here.

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1 Every comment becomes part of the public record.

2 I want to apologize for any inconvenience anybody
3 experienced in getting here today. I know that we issued a
4 notice of change of location somewhat late. We don't like
5 to do that.

6 It did come to our attention that we were likely
7 to have more people than we had capacity to handle at our
8 facility at 45 Fremont Street, and so we felt compelled to
9 move the hearing, and we actually felt fortunate that we
10 were able to get this room for the hearing, so my apologies
11 for anybody who had difficulty because of that.

12 We have about 15 people who have indicated that
13 they do or may like to speak to us today.

14 The way this will work is I will call your name
15 from the sign-in sheet and ask you to come up to speak to
16 us. The lectern is over here.

17 When you come up, please state your name, your
18 first name and your last name, spell your last name for the
19 court reporter to take down, and indicate who you are
20 affiliated with.

21 So this is your opportunity to give us
22 constructive input about the regulation and tell us how you
23 think they could be improved.

24 It is not a forum for you to ask questions of the
25 panel.

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1 Members of the panel generally ask very few
2 questions of speakers here today, but we may ask some
3 questions for clarification, if necessary.

4 So with that, I will call the first speaker today,
5 and this person doesn't know who they are yet, but could
6 Beth Givens come up and talk to us, and please state your
7 name and spell your last name and tell us who you are
8 representing?

9 MS. GIVENS: Thank you. I'm Beth Givens, the
10 Director of the Privacy Rights Clearinghouse. Givens is
11 spelled G-i-v, as Victor, -e-n-s.

12 I'm a director of the nonprofit consumer education
13 and consumer advocacy education called the Privacy Rights
14 Clearinghouse. We are based in San Diego, and we were
15 established in 1992, and I want to thank you for the
16 opportunity to speak today.

17 I do commend the commissioner for stating last
18 August in a press release that any policies that use GPS to
19 track location will not be approved. However, some onboard
20 devices that do not use GPS may still collect more data
21 than actual mileage, data such as acceleration and
22 deceleration rates, for example.

23 In our written comments, which, by the way, I'm
24 not reading -- I just want you to know. In our written
25 comments, we strongly urge the CDI to adopt regulations

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1 that limit the data collection by onboard devices to
2 mileage only.

3 Some insurers, however, are interested in devices
4 that collect far more data.

5 The following is a list of characteristics about
6 miles driven suggested by one insurer: mileage by time of
7 day and day of the week, mileage by type of road, where
8 those miles are driven, mileage by speed intervals, number
9 of miles per trip, and number of aggressive maneuvers per
10 miles driven such as hard stops, starts or turns.

11 Truly, a device that could record all of these
12 characteristics would indeed amount to an onboard
13 surveillance system, something that we at the Privacy
14 Rights Clearinghouse would urge you to reject.

15 The argument is made that consumers would have
16 choice. They could choose a pay-as-you-drive --
17 pay-as-you-drive insurance service or not, and also that
18 goes for onboard data collection devices, but in this time
19 of economic hardship and consumer belt-tightening, a
20 pay-as-you-drive insurance policy that enables a family to
21 save money may not seem like much of a choice. It may seem
22 more like a necessity.

23 I would like to briefly comment on the potential
24 for secondary uses of data collected by an onboard device,
25 something that, to the best of my knowledge, the proposed

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1 regulations do not consider or the proposed regulation does
2 not consider.

3 There is a principle that we use in the privacy
4 advocacy world called "the secondary use principle," and it
5 says something like this -- and I'm paraphrasing -- data
6 that is collected for one purpose shall not be used for
7 other purposes without the affirmative consent of the
8 individual. And that's the end of that statement of
9 principle.

10 We at the Privacy Rights Clearinghouse strongly
11 recommend that the final regulation prohibit any additional
12 uses of data collected by any onboard device.

13 In closing, I want to thank you again for the
14 opportunity to present our written and spoken comments
15 today. Thank you.

16 MR. GOODELL: Thank you very much.

17 Could Chris Gay come and address us?

18 MR. GAY: Good morning. How is the audio check on
19 this? Can you to hear me?

20 MR. GOODELL: Good.

21 MR. GAY: Okay. For the record, my name is Chris
22 Gay. I'm the CEO of MileMeter Insurance Company, which I
23 will refer to as MileMeter going forward.

24 Good morning, audience.

25 We have submitted our written comments to the

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1 panel. Thank you for acknowledging receipt of those. I
2 won't be reading from those today, but I would like to
3 highlight a few points.

4 First and foremost, MileMeter Insurance Company is
5 the mythical per-mile auto insurance company. We are alive
6 and selling insurance in the state of Texas, and we are an
7 admitted and licensed property and casualty carrier in the
8 state of Texas.

9 We have had a lot of strong grassroots support.
10 People like it. They want to buy it. We would like to
11 bring it to other markets, including California, which is
12 one of the reasons we are taking such an interest in
13 proposed regulations, and we have an aim to see them be as
14 effective as possible within the commissioner's intent.

15 Beth, just so you know what we're up to and the
16 panel, we do not use any GPS devices or vehicle-installed
17 tracking devices. We went to great pains over five years
18 to create a product that we believed in, that we wanted as
19 consumers, and we wanted to build as a company.

20 We started this company as frustrated consumers,
21 and we wanted to create what we considered the cure for car
22 insurance.

23 Our pricing is the most transparent in the
24 industry. It's near linear so that the consumers can
25 directly see and realize the benefits of driving fewer

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1 miles, and therefore, changes in behavior are rewarded,
2 which will lead to the environmental and social benefits in
3 addition to the pocketbook benefits that an average
4 household will receive.

5 And I'm sure some of the speakers later today will
6 bring up the social and environmental benefits of
7 distance-based pricing.

8 With regards to the commissioner's intent, stated
9 objectives, you have a few suggestions that we believe will
10 make the proposed regulations more effective and more
11 beneficial for Californians and, at large, the nation as
12 California sets the trend for other states to follow.

13 Our first suggestion is that, if a consumer
14 voluntarily elects to be part of a usage-based insurance
15 program or product, the insurer must have the ability to
16 require submission or collection of verified odometer
17 readings.

18 My reading of the proposed regulations right now,
19 the insurer is really in the hands of the insured in terms
20 of what will be given on a going-forward basis under the
21 contract language.

22 The proposed regulations allow the insurers to
23 adjust premiums or provide discounts only after verified
24 mileage has been provided. It's a look-back on a term.

25 We believe a look-forward approach will be more

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1 effective because consumers can see exactly what they are
2 buying up front, and they understand what they are buying
3 and how they use it and consume it, and ultimately, that
4 means they have a transparent and clear incentive to change
5 behavior.

6 At the end of the day, beyond running a business,
7 we want to change behavior. We want to make something that
8 rewards our communities and rewards our citizens.

9 Our second proposed comment or an addition or
10 change to the regulations is that insurers be allowed to
11 verify the representations made by policyholders at the
12 time of policy purchase.

13 For instance, if a consumer agrees to a voluntary
14 records check as part of the underwriting process, you come
15 to us right now or you come to another insurer offering a
16 product like this and you, as a consumer, choose to undergo
17 the underwriting process, you should be able to say, yes,
18 you can run a records check, go out and get those
19 private -- public databases to look at my odometer readings
20 of my vehicle to include, but not limited to, emission
21 inspection, title transfer, and vehicle service records.

22 My -- my read of the proposed regulations, as they
23 stand right now, would require that an employer agent of an
24 insurance company directly collect this information or that
25 a tracking device be used, which, obviously, I would like

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1 to avoid, or that the insurance companies at the mercy of
2 the policyholder supply the data on a voluntary basis going
3 forward.

4 We simply say and believe that, if someone has
5 chosen to enter into an underwriting process, we should
6 have the ability to trust, but verify, at all points during
7 the underwriting and following policy period.

8 Again, such a query would only occur after a
9 consumer has consented to a records check as part of a
10 usage-based policy underwriting purchase process.

11 Thirdly, we would appreciate it if the
12 policyholder provided odometer readings to be used as a
13 basis for the effective policy period, allowed us to hold
14 them accountable.

15 Now, in Texas, we can hold people accountable. We
16 went through a lot of effort to create a product to save
17 people money, and anywhere we could trim the costs in the
18 process that allowed us to pass through a lower rate to the
19 consumer, and so please keep in mind our suggestions here
20 are aimed at providing the lowest possible rate to
21 consumers.

22 With that said, the insurer must have the ability
23 to refuse coverage and deny claims if it is discovered that
24 the policyholder provided fraudulent statements or data or
25 materially misrepresented their state at the time of

1 underwriting or during the effective policy period.

2 If at any time during a policy period it becomes
3 apparent that the policyholder provided a false or
4 misleading representation of their odometer reading or the
5 condition of the odometer to the insurer, we strongly
6 believe the insurance company must have the ability to deny
7 claims, because coverage should not be enforced due to the
8 fraud and material misrepresentation.

9 Again, you give people the choice to choose
10 between name-brand beings and generic beings, if they make
11 the choice, they should know that with the cost savings
12 comes some responsibility, and they need to tell the truth.

13 As long as consumer disclosures occurred by the
14 purchase process and the insurance company makes a best
15 effort to verify the status of the insured and the
16 insured's vehicle at time of underwriting, we request that
17 a stipulation be added for fraud and material
18 misrepresentation.

19 Again, our objective is to offer the best product
20 at the best price to the consumer, ultimately benefiting
21 Californians and the nation.

22 Our fourth suggestion is that policy periods be
23 denominated where you allow for policy periods -- for
24 usage-based insurance be denominated in units of time and
25 units of distance or a combination thereof.

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1 The proposed regulations appear to assume that
2 insurance can only be sold in a six- or 12-month increment,
3 and at MileMeter, we sell, for instance, between one and
4 6,000 miles of coverage at a time. They are good until
5 they are consumed or driven or until six months transpires.
6 They have an expiration.

7 We put an expiration on those miles to encourage
8 people to, first, buy as little as they need. We honestly
9 want households to focus on affordability. Just use what
10 you need. You can always come back and buy more.

11 Second, there's always a cost as insurance
12 companies -- those in the industry know this -- there's
13 always a cost to extending coverage.

14 And third, some damages or some coverages like
15 collision and comprehensive have time-based components, and
16 in four and five years of R&D, my experience and the
17 experience of my team and my investors is that there is
18 more than one way to do this. We believe we are doing it
19 the best way possible, and we simply ask the government of
20 California, citizens of California, to bring what we
21 believe is the best product for consumers to your state.
22 We are simply -- it's all we're asking for.

23 Finally, and most importantly, in our opinion,
24 because we believe, again, that there's more than one way
25 to do business, we ask that in order for usage-based

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1 insurance to be provided to California consumers in a
2 timely fashion, we recommend modifying California Insurance
3 Code Section 716 to waive the seasoning barriers for
4 usage-based insurance providers.

5 Gentlemen, we would be in your state doing
6 business next year. We are a licensed and admitted carrier
7 in the state of Texas and have undergone the full uniform
8 certificate of authority process.

9 If a carrier meets your capital and surplus
10 requirements, your normal financial requirements, that are
11 otherwise authorized to do business under the
12 certificate-of-authority process, we ask that you waive the
13 seasoning requirements for a usage-based insurance carrier
14 to come to your state, so we can address this market need
15 and benefit your state and its citizens.

16 Ultimately, we believe that these proposed
17 suggestions will help achieve the objectives of the
18 commissioner and your panel for the proposed pay-drive and
19 usage-based insurance regulations.

20 I would like to thank the panel, and thank you and
21 the audience for listening so intently, and obviously, we
22 will be available for questions at any time should the
23 panel like to ask us any further on or off line.

24 MR. GOODELL: Thank you.

25 Dorothy Glancy, if you could come up and address

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1 the panel.

2 MS. GLANCY: I'm a little bit shorter, I think,
3 than he was.

4 My name is Dorothy Glancy. My surname is spelled
5 G-l-a-n-, like Nancy, c-, like Charlie, y, like yes. I am
6 from Santa Clara University, School of Law.

7 And I thought I might begin by saying that my
8 interest in these regulations comes from two sources: One,
9 I teach administrative law, and I'm interested in
10 regulatory changes, particularly at the state level here in
11 California.

12 I also teach privacy law and have worked with
13 privacy and technology for about 30 years.

14 I'm one of the few lawyers in the country who
15 works on the privacy implications of intelligent
16 transportation systems, the kinds of smart cars and devices
17 that are the subject matter of this regulation, and I would
18 be very happy to answer any questions you may have about
19 that intersection, since I'm here and might be of some
20 assistance to you.

21 I have a set of written comments that are fairly
22 lengthy, and I will not, of course, repeat them, but I make
23 about six different points, and I'm going to try and boil
24 those down to about four.

25 In the -- to begin with, let me say that I think

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1 the regulation is refreshingly short; that is, it's very
2 nice to see regulations that don't go on for turgid page
3 after turgid page. However, it seems to me that they are
4 missing some detail that is important both with regard to
5 the consumer choice and with regard to privacy, and I'll
6 just mention a few of those. The rest of them, of course,
7 are in my written comments.

8 To begin with, the proposed regulation talks about
9 the adjustment of premiums at the end of the premium period
10 but doesn't seem to indicate whether that ratchet -- that
11 change would be both upward and downward nor does the
12 regulation provide any process or specify any process for
13 the calculation of those changes.

14 In my written comments, I have some regulatory
15 language that would do that and make it clear that you
16 begin with a set of estimated mileage, then you compare it
17 at the end, and the difference between how much less you
18 drove, you would get a rebate from the insurance company
19 and if you drove more, then you expected you would, of
20 course, pay at the same miles per -- same dollars-per-mile
21 rate.

22 It seems to me that's a very important detail that
23 is missing from the regulation and really makes consumer
24 choice kind of unfriendly, I guess we would say it that
25 way.

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1 The other area that is missing is the definition
2 about the technological devices.

3 Beth Givens, at the beginning of this hearing,
4 mentioned that there should be an exclusion of GPS and
5 tracking devices.

6 I provided in my comment letter some language that
7 would do that. It seems to me that it's extremely
8 important that the regulations really follow up on and make
9 good the promises of the commissioner of insurance at
10 repeated press conferences that any technological devices
11 associated with these regulations, with this kind of
12 mileage-based insurance, would not include the GPS devices
13 for which he has and his former company have a number of
14 patents nor would they include a variety of tracking
15 devices built into cars, and that's an area where I am a --
16 an expert.

17 We are currently working on devices that will be
18 built into cars that will constantly transmit information
19 of a variety of sorts. None of that information under the
20 current program would be available to insurance companies
21 as part of the privacy framework for the vehicle
22 infrastructure integration program, and it seems to me that
23 that is very important.

24 The regulations also seem to indicate that some
25 kind of technological device is going to magically appear

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1 from somewhere, and it may be that you're talking about
2 having the insurance company install the device and own the
3 device.

4 It may be that you are talking about piggybacking
5 on devices that are built into cars, the sensing and
6 diagnostic modules that I could explain to you, if you are
7 interested in learning about them, and how much
8 privacy-related data they would transmit if the insurance
9 company were to be able to tap into that source of
10 information -- extremely valuable, quite personal
11 information that the insured would often be kind of
12 hoodwinked into giving to the insurance company unless you
13 are very careful with regard to the kinds of privacy
14 protections that you provide.

15 In addition, this regulation will create a whole
16 new category of information, and that is vehicle miles
17 driven.

18 In my comment letter, I suggest that there is a
19 really desperate need to amend the privacy regulations for
20 the Department of Insurance, which are dated 2003 and are
21 out of date anyway. They need to be amended to keep up
22 with some of the changes in the authorizing legislation
23 that became effective at the beginning of 2007.

24 But in any event, with regard to this information,
25 it needs to be clearly designated as nonpublic personal

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1 information that shall not be disclosed to anyone for any
2 purpose. It seems to be a very important omission in the
3 regulatory program.

4 And just finally, in my comment letter, I mention
5 a number of unintended consequences that might follow from
6 the adoption of these regulations, and I provided the
7 department with a -- with access -- with a citation to a
8 study that was done in Oregon that was just completed this
9 past summer that shows that these pay-by-mile systems tend
10 to be highly regressive; that is that that they would fall
11 more heavily on poor people than they would on rich people,
12 and that that is a consideration that the Department of
13 Insurance ought to be taking into account and one which
14 they have not studied; that is, for which there is no
15 information.

16 The Oregon study shows that such information is
17 possible to acquire, and that economists are studying these
18 kinds of issues in other states. Why not look carefully
19 before we leap into a system that may have some really
20 fairly undesirable, unintended consequences?

21 And I thank you for your attention, and if I can
22 be of help, I'm happy to be of help at any time.

23 MR. LAUCHER: I have one question. The
24 regulations only deal with mileage and another way to
25 measure mileage, basically.

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1 Are you, in your written materials or here,
2 objecting if the device -- objecting to a device that might
3 collect more information, even though that information
4 would not be utilized in terms of California rating law?

5 MS. GLANCY: I'm not sure that I understand what
6 you mean. If you are talking about the sensing and
7 diagnostic modules that come in various sorts, then they --
8 that include odometer ratings, I'm objecting to information
9 from those devices in addition to the mileage driven going
10 to the insurance companies. They have no need for it.
11 They have no right to it.

12 It seems to me that the mileage driven itself, are
13 you driving more miles this six-month period than you were
14 in the last six-month period, is personal information, is
15 related to an individual, and does deserve protection.

16 Currently, the insurance companies have odometers.

17 Mr. Getti's company is able to deal with
18 mileage-based insurance based on reading odometers that are
19 a technological device that are built into vehicles, have
20 been built into vehicles for, what, 50, 60 years. They are
21 protected under federal law. They are protected under
22 state law from tampering. They are about as good a
23 mileage-counting device as you are likely to get.

24 So it seems to me that the need for some other
25 kind of technological device to feed information of any

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1 sort to an insurance company is probably not necessary.

2 MR. LAUCHER: Thank you.

3 MR. GOODELL: Thank you.

4 Sam Sorich.

5 MR. SORICH: Good morning, I'm Sam Sorich,

6 S-o-r-i-c-h, and I represent the Association of California

7 Insurance Companies, ACIC.

8 Later on today, ACIC and the Personal Insurance
9 Federation of California will submit a joint statement to
10 the department on these proposed amendments, and attached
11 to our statement will be -- and another statement that was
12 prepared on our behalf by Shawna Ackerman of Pinnacle
13 Actuaries, so you will be receiving that information later
14 on today. I will not read our statement or Ms. Ackerman's
15 statement.

16 But ACIC and the Personal Insurance Federation of
17 California both support this effort to determine the
18 mileage factor based on actual mileage rather than
19 estimated mileage. We believe that this is a positive
20 step.

21 We also support the goals of the regulations to
22 encourage people to drive less and to create financial
23 incentives for California drivers who limit their driving.
24 However, in order to achieve these goals, the amendments as
25 drafted should be changed.

1 And in our statements, we indicate three areas
2 where changes are needed: one, to change the provisions
3 relating to the verification process; two, to address
4 language in section 2632.5(e) that as, at least, applied by
5 the department restricts the combining or interaction of
6 rating factors; and then, three, we believe that it's
7 necessary in order to achieve the goals of pay-as-you-drive
8 to adopt additional rating factors.

9 On the first point on the verification process, as
10 we read the verification process, it can be done in one of
11 three ways, either the odometer readings, the information
12 from a repair shop, or technological devices.

13 The amendments, as drafted, could be read to mean
14 that only one of these methods could be used. We see no
15 reason to restrict -- for a reading like that. I think it
16 should be made clear that a company could decide to use
17 more than one method to verify mileage.

18 The second point here on the odometer readings,
19 the regulations as the amendments as adopted would allow an
20 agent or an employee of an insurance company to get the
21 odometer readings.

22 That may not work for many companies who may not
23 have agents or employees in the area, so we -- we would
24 suggest that the odometer readings be able to be authorized
25 to be performed by any reliable source or any third-party

1 vendor.

2 And then also, as was mentioned, the amendments as
3 drafted restrict the receipt of information from an auto
4 repair dealer. That must be done through the policyholder.
5 We don't see any good reason why that needs to be done.
6 There should be a direct -- there should be direct access
7 by an insurance company to service records from an auto
8 repair dealer.

9 And then lastly, we don't have any need to
10 restrict mileage verification information from just auto
11 dealers. It could be a variety of sources out there, so we
12 could suggest, and we've suggested in our written comments,
13 the ability to provide verification from other sources.
14 Some sources may not even be known today.

15 And just a footnote to the whole verification
16 process -- and it's highlighted in Ms. Ackerman's
17 comments -- there will be costs attendant to verifying
18 mileage. There will be costs in just obtaining the
19 information and also be additional costs of billing -- more
20 billings and premium modifications going out to customers.

21 We are concerned that those additional costs may
22 not be and appeared not to be recognized in the existing
23 efficiency standards in the prior approval regulations, and
24 as you know, the efficiency standard is based on a period
25 of time, a three-year average, and in order to encourage

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1 companies to immediately get involved in verifying mileage,
2 we would suggest consideration be given to a variance,
3 because it doesn't appear that any of the existing
4 variances would fit here, but a variance to allow companies
5 to recognize these additional costs.

6 Our second point on the combining of rating
7 factors, from information that we have from our member
8 companies, it appears that the way the department is
9 interpreting Section 2632.5(e), especially the second
10 sentence of that provision, it creates an inherent
11 limitation on the significance that can be given to
12 verified mileage.

13 And I think Mr. Frazier is going to address those
14 issues in his comments, and they are detailed in Ms.
15 Ackerman's written statement.

16 Lastly, on the adoption of additional rating
17 factors, after the workshop on June 23rd, we provided to
18 the department about 15 studies and academic research on
19 pay-as-you-drive, and those papers recognize that, you
20 know, the goals -- they recognize goals of pay-as-you-drive
21 are to reduce driving, to improve equity in insurance
22 rating, and to create safer driving conditions.

23 The studies that we have reviewed conclude that
24 those goals cannot be fully achieved simply by verifying
25 mileage. More needs to be done.

1 The Brookings Institution's paper on
2 pay-as-you-drive, which was just released this year, says,
3 quote: While adding mileage to the rating mix will
4 increase efficiency and equity in auto -- in the auto
5 insurance market, even more can be done to price auto
6 insurance more accurately and efficiently. Optimal
7 premiums would incorporate other factors that contribute to
8 accident risk such as speed, time of day, and
9 aggressiveness, unquote.

10 And the statement in the Brookings Institution's
11 paper is consistent with research that we note in our
12 statement.

13 There was a study done last year on the Minnesota
14 Department of Insurance's pay-as-you-drive program. It
15 concluded that the pay-as-you-drive program did result in a
16 reduction of miles driven, but that program was not limited
17 to just verified mileage. It also gathered information on
18 the time of the day and the day of the week that the car
19 was driven.

20 There was another study in -- it was done in the
21 Netherlands last year on a pay-as-you-drive program that
22 concluded that, in terms of safety, simply gathering
23 information on verified -- verifying mileage had no
24 significant impact on safety, and that in order to make a
25 difference in safe driving, more information was needed

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1 to -- to combine that information with simply verifying the
2 mileage.

3 So our recommendation is that additional optional
4 rating factors should be adopted. We think the optional
5 ratings factors are consistent with the goals of
6 pay-as-you-drive, and the optional factors that we would
7 suggest would allow a company to consider when is a car is
8 driven, how a car is driven -- and by that, we mean speed
9 and acceleration and braking patterns -- and then finally,
10 consideration for the road conditions where a car is being
11 driven.

12 We believe that without the incorporation of those
13 additional optional rating factors, simply verifying
14 mileage will not allow pay-as-you-drive to achieve its
15 stated goals of reducing driving, creating fairer
16 insurance, and creating safer driving. So thank you.

17 MR. LAUCHER: I do have one question. Just ask,
18 as to the way that mileage is reported or obtained from the
19 insurance company, did any of your members say that they
20 might want to receive those mileage reports directly from
21 the consumer in certain instances or --

22 MR. SORICH: Yes.

23 MR. LAUCHER: -- at least interim basis?

24 MR. SORICH: Yes, yes, and that's the purpose of
25 our suggesting that additional methods be made available.

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1 I think that is an option that should be explored and made
2 available.

3 MR. LAUCHER: Thank you.

4 MR. GOODELL: In terms of your comment that
5 insurers should be able to get the information directly
6 from service providers, vehicle repair shops and so on, is
7 that a suggestion that they would use databases for this
8 type of thing or that they would contact vehicle repair
9 service for individual insurers or --

10 MR. SORICH: We -- we would suggest that the
11 insurer have the ability to obtain that information from --
12 either directly from a repair shop or from databases that
13 are available. So I think your question reflects our
14 concern that the options that are stated are maybe too
15 confining, and in order to effectively verify mileage in a
16 fair way, that other options besides the three stated
17 should be made available.

18 MR. GOODELL: Great. Thank you.

19 MR. SORICH: Thank you.

20 MR. GOODELL: Rex Frazier.

21 MR. FRAZIER: Good morning.

22 MR. FRAZIER: My name is Rex Frazier,
23 F-r-a-z-i-e-r. I am president of the Personal Insurance
24 Federation of California.

25 We represent a significant portion of the auto

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1 insurance industry in California, and so my comments
2 necessarily will reflect the views of multiple companies
3 rather than any one particular competitor.

4 For us, the proposal that the department
5 circulated is a good first step, and really instead of
6 pay-as-you-drive, I think it more resembles an extension of
7 the mileage verification regulations that we've discussed
8 in the past and really a necessary next step, because
9 really the proposal that the department has circulated is
10 nothing more than the current system with some enhanced
11 ability to verify mileage under the existing rules.

12 And while important, at this point, the feedback
13 we've received from our member companies is that this could
14 lead to possible incremental improvements in the auto
15 rating system, but it doesn't match really the public
16 rhetoric that we've seen in the popular press coverage, and
17 as a result, we have a concern of overpromising and really
18 trying to create realistic expectations for what the
19 consumers will see in the marketplace.

20 At this point, the statement has been made several
21 times that, under a pay-as-you-drive proposal, we could see
22 discounts 15, 20, 25 percent, and the proposal that we have
23 before us, I'm not sure that really matches that type of a
24 promise.

25 Now, it's our hope that we could get a set of

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1 rules that ultimately would allow that type of market
2 innovation and would allow consumers to find the type of
3 carrier that would result in them obtaining such discounts
4 because, ultimately, the goal we submit is for the
5 department to promulgate a set of regulations that are
6 flexible enough so that the market participants can pursue
7 their individual specialties and go out and provide a whole
8 range of options so that consumers can seek their
9 discounts.

10 With what we have now, I don't believe that we are
11 there.

12 Insurance is not a commodity.

13 There are some consumers who want to buy on price.
14 There are some consumers who might adopt an option that is
15 a flat -- flat per-mile approach, and that's perfectly fine
16 for the marketplace. There are others who that may not be
17 what they want.

18 And in California, we just can't use annual
19 mileage. We also have to use the other mandatory factors,
20 so it's a little more complicated here.

21 And our hope is to get to the point where, in a
22 manner consistent with Proposition 103, we can have a range
23 of discounts that people can pursue.

24 The important thing is that under the
25 Spanish-speaking citizens case here in California, the

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1 department has extensive discretion under Proposition 103
2 to adopt changes to the auto rating system, and often times
3 people might view Proposition 103 as a straitjacket, but in
4 this instance, in these circumstances, Prop 103 actually
5 provides us with quite an opportunity for the department to
6 promote the flexibility in market innovation.

7 We are excited by the prospect that the department
8 can truly do something that leads to an innovative system
9 that just doesn't exist anywhere else in the country.

10 With that, would I like to offer one additional
11 change in addition to what Sam Sorich had outlined.

12 In section 2632.5(e), that's a section in the
13 regulations which governs how rating factors can interact,
14 and just a simple example of the power of interaction is
15 the Prop 103 good-driver discount. The Prop 103
16 good-driver discount is really how long you have been
17 driving plus driver safety record, and when those two
18 factors are looked at together, then a new discount can be
19 obtained.

20 2632.5(e) limits the type of interaction that is
21 available to the third mandatory factor and a handful of
22 optional rating factors.

23 And as we're considering really how to move the
24 needle on invasion and to really embark upon a system that
25 provides significant discounts, we submit that it would be

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1 productive and beneficial to all involved to really take a
2 hard look at whether the restrictions in 2632.5(e) are
3 necessary.

4 If a market participant believes it can put
5 together a way to rate based on allowing multiple rating
6 factors to interact, it should be able to at least petition
7 the department for allowance to do that because, in the
8 end, the department does control what can happen in the
9 marketplace.

10 The department would approve a class plan, and so
11 there shouldn't be a concern that it would be the wild West
12 and that companies could do whatever they want, unchecked
13 by the state. Far from it, and we're content to live
14 within that approval system.

15 In proposing this -- and we will have a more
16 detailed proposal in the written comments that we submit --
17 we do want to be sensitive to the concerns that are always
18 expressed about the use of territory, because that can be a
19 controversial topic, and so in our proposal, we would omit
20 interaction involving the two territorial variables
21 completely from the proposal. We don't want that to be a
22 distraction from what really should be a joint exercise
23 here in trying to promote as much innovation as possible
24 and to allow as many interactions as a company could
25 justify to the Department of Insurance.

1 In the end, our hope is that the department would
2 really move beyond the mileage verification aspects of this
3 and really challenge the industry and, frankly, empower the
4 creativity of those in the industry to come up with a range
5 of discounts because, in the end, even though there are so
6 many different competitors and they are out there and they
7 want to be coming up with just that next step that's going
8 to lead them to increased success, and in the end, we view
9 the public is benefiting from that type of approach.

10 So with that, thank you.

11 MR. GOODELL: Thank you for your comments.

12 Justin Horner.

13 MR. HORNER: Good morning. I have shortened my
14 comments to make sure I'm not repeating anything that was
15 said.

16 My name is Justin Horner, H-o-r-n-e-r. I'm with
17 the Natural Resources Defense Counsel, also known as NRDC.

18 On behalf of NRDC, which has 1.2 million members
19 or activists, 214,000 of them are Californians.

20 We thank the Department of Insurance for its
21 efforts to implement usage-based auto insurance here in the
22 state of California.

23 As cosponsors of AB-32, California's Global
24 Warming Solutions Act, NRDC is committed to identifying
25 strategies that allow California to reach our global

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1 warming pollution goals.

2 California has strong policies in place to reduce
3 emissions from vehicles and to reduce the carbon intensity
4 of fuels, but the California Energy Commission tells us
5 that, if we do not reduce the number of vehicle miles
6 traveled, or VMT, from California drivers, the
7 environmental benefits of these other two strategies could
8 be entirely neutralized.

9 So we appreciate pay-as-you-drive as a policy that
10 can reduce VMT and have an environmental impact.

11 NRDC was also a cosponsor --

12 THE REPORTER: I'm sorry. Could I have you slow
13 down?

14 MR. HORNER: NRDC was also a cosponsor of the
15 recently signed SB-375, a groundbreaking reform that, for
16 the first time in American history, ties land use and
17 transportation decision-making to climate change and the
18 reduction in vehicle miles traveled.

19 Governor Schwarzenegger called it the sequel to
20 AB-32.

21 By opening up the largest auto insurance market in
22 the nation, pay-as-you-drive, the insurance commissioner's
23 made a bold move for California's drivers and for the
24 environment.

25 But to realize --

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1 MR. GOODELL: I just repeat the request to slow
2 down. The reporter is having a little difficulty.

3 MR. HORNER: I'm sorry.

4 But to realize these benefits, pay-as-you-drive
5 insurance needs to become a reality, and while permitting
6 pay-as-you-drive is essential, getting pay-as-you-drive
7 policies written and in glove compartments of California
8 drivers is the real goal.

9 From an environmental standpoint, reductions in
10 vehicle miles traveled will lead directly to reductions in
11 global warming pollution.

12 Studies differ, but all point to reductions in VMT
13 with pay-as-you-drive.

14 Less VMT also means safer streets and lesser
15 congestion.

16 NRDC's own analysis, based on a range of VMT
17 reductions from four to eight percent in a modest
18 15-percent participation rate among California drivers,
19 projects a reduction range of 1.3 to 2.6 million metric
20 tons of CO2 by 2020.

21 For scale, the governor's million solar roofs
22 initiative promises 2.1 million metric tons.

23 We believe even greater reductions are possible
24 with more widespread utilization of pay-as-you-drive.

25 As a result, it is NRDC's recommendation that

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1 insurance companies in the state of California be required
2 to offer a pay-as-you-drive-type product to their
3 customers.

4 Customers can choose to stay with their policies,
5 but the only way you can guarantee the effective
6 availability of a product known to reduce driving pollution
7 is to require companies to at least offer it to their
8 customers.

9 To ease implementation, to offer a straightforward
10 product easily grasped by the public, we would broadly say
11 that pay-as-you-drive is a policy that has mileage as the
12 unit of exposure requires verification of mileage only, has
13 the narrowest feasible mileage bans, has a minimum
14 percentage of premium tied to miles driven.

15 An alternative recommendation would be to require
16 insurance companies to verify the miles of all of their
17 customers.

18 This could be accompanied by efforts to improve
19 the clarity in relative weight of mileage, a second
20 mandatory rating factor, with the goal of migrating all
21 auto insurance in California towards a pay-as-you-drive
22 approach.

23 The use of mileage as the unit of exposure is
24 critical.

25 Proposition 103 clearly sets forth as the second

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1 mandatory rating factors the number of miles driven
2 annually.

3 There is a clear relationship between the number
4 of miles an individual drives in that driver's practice.
5 For the purposes of pricing, the mile is easily an
6 understood unit.

7 Drivers clearly recognize the benefits and
8 trade-offs of driving an additional mile for a specific
9 price, and vehicle miles traveled is also the standard unit
10 of measure with respect to transportation of land use
11 planning policy related to environmental and climate change
12 policy and is easily obtainable with minimal interference
13 on driver privacy.

14 For all of these reasons, NRDC believes
15 pay-as-you-drive should be a mileage-only product.

16 NRDC does not contest, however, that there are
17 other aspects of driving behavior that have environmental
18 impact.

19 Acceleration and deceleration behavior,
20 maintenance, load weight, tire inflation, and other factors
21 can improve the environmental performance of an automobile.

22 To the extent that these factors relate to crash
23 risk, NRDC is not opposed to their consideration in any
24 future proceeding.

25 Our concern, however, is that the introduction of

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1 new optional rating factors could prolong the rule-making
2 process, delaying the introduction of pay-as-you-drive, a
3 program demonstrated to increase VMT and global warming
4 pollution, and future proceedings would begin from a
5 foundation of this mileage-based pay-as-you-drive product,
6 which is a significant improvement over current business
7 practice.

8 Thank you very much for your time and attention.

9 Sorry about the speed.

10 MR. GOODELL: Thank you.

11 Carmen Balber.

12 MR. BALBER: I may have the same speed problem, so
13 wave at me if I do. I tend to run on quickly.

14 It's Carmen Balber -- that's B-a-l-b-e-r -- with
15 Consumer Watchdog.

16 We want to thank the department for moving forward
17 with regulations that would more aggressively implement the
18 second mandatory factor, number of annual miles driven.

19 And we think the priority of any new regulations
20 to do this have to be narrower mileage driven, if we intend
21 to create incentives for drivers to drive less and more
22 closely tied premiums to annual miles driven.

23 I think Danny said that the primary goal of these
24 regs was to close the correlation between miles driven and
25 premiums.

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1 So we think narrower mileage bans are necessary
2 for that and think the department should set a maximum
3 width for all insurance companies to meet, one maximum
4 width that would go across the industry, and maybe that
5 would be in the 2,000, 3,000 miles, and then a second
6 maximum width for those companies that would earn what we
7 call the green seal of approval from the department at the
8 workshop proceedings before.

9 That kind of green seal that we talked about
10 before, the criteria for which would be a way to reward
11 companies with a marketing incentive with a competitive
12 advantage for setting even more mileage bans, and we would
13 see those bans in the range of 500, 250, very small mileage
14 bans in the hundreds range.

15 This would create a recognizable correlation for
16 drivers between how far they drive and what their premium
17 is.

18 And I think if we look at the market right now,
19 there are some insurers that simply have bans that are so
20 wide that the connection is completely -- is completely
21 hidden for drivers.

22 We shouldn't be trying to import a
23 pay-as-you-drive program from other states, and I think
24 that's kind of where the regulations are geared towards
25 right now, by creating the idea of a voluntary program that

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1 would rate people differently or provide some sort of
2 different discount based on verified or estimated mileage.

3 We should be trying to implement 103's mandate
4 that miles driven is a secondary primary factor.

5 Frankly, we already have pay-as-you-drive
6 insurance in California, and we're the only state that
7 requires it.

8 And no matter how you try and structure, if a
9 program sets up different rates or different prices for
10 people with voluntary estimated -- with verified and
11 estimated mileage, it's not going to comply with
12 Proposition 103.

13 So to get there, we think these narrower mileage
14 bans are important.

15 We also agree with the environmental groups that
16 mandating mileage verification across the board for all
17 companies and all consumers is a way to get around that
18 tension between verifiers and estimators. It's also a way
19 to answer the insurance industry's concern that they can't
20 really closely tie rates to miles because they don't know
21 how far we drive.

22 We would also just add, in addition to what the
23 privacy organizations say, that we don't think the
24 regulations as they are drafted right now are explicit
25 enough about protecting consumer privacy and that

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1 consumers, and not just insurance companies, need mileage
2 verification options, so we agree with some of the
3 additional suggestions -- service stations, smog check,
4 et cetera.

5 We think self-reporting is very important.

6 As the MileMeter guy said, they have people who
7 report their miles, and that works just fine.

8 But obviously, if we're going to require mileage
9 verification, we also have to allow insurance companies to
10 set some sort of minimum standard for how consumers have to
11 verify mileage.

12 We think a logical way to do that is set it
13 according to the way that the driver applied for their
14 insurance policy.

15 So I'm a person who had to go their agent's
16 office -- had to go to an agent's office to fill out the
17 application and have my car looked at, et cetera, it would
18 be reasonable to require that driver to go back to the
19 agent's office to have their odometer checked.

20 If I completed the entire proceeding online, I
21 should be able to submit my mileage for verification
22 online.

23 It's for insurance companies, because they are
24 already accepting data provided by policyholders in that
25 way.

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1 It would work for consumers because we're not
2 adding any additional verification burden that they haven't
3 already accepted to in applying for that auto insurance.

4 And then we would just add that the regulation
5 should also explicitly ban insurers from requiring tracking
6 devices, and although we know this is the stated intent of
7 the commissioner, it's not explicit. Ban insurance
8 companies from charging drivers differently based on
9 whether or not they use technology, and limit the use of
10 that technology to collecting mileage only.

11 All of this other data that has been suggested --
12 braking patterns, time of day, speed, all of that
13 information -- doesn't fit within the current system.
14 There's no rule right now that would allow it, so they need
15 additional rating factors. They can't be combined with a
16 second mandatory factor. It's the number of annual miles.

17 Frankly, they raise a lot of the same fairness and
18 privacy concerns that are raised with mileage when you talk
19 about requiring the use of technology, because you cannot
20 track that information without the use of technology.

21 We think there are a lot more questions when we
22 talk about adding these additional factors in, and we would
23 urge you to limit our discussion now to the best way to
24 implement the mileage mandatory factor and leave the
25 confusion of those additional factors for another time.

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1 Thanks.

2 MR. GOODELL: Thank you.

3 Laura Novarro.

4 MS. NAVARRO: Hi, I'm Laura Navarro from
5 Environmental Defense Fund, N-a-v-, as in Victor, a-r-r-o.

6 Environmental Defense Fund is a national
7 organization dedicated to find environmental solutions that
8 also improve the economy.

9 To be honest, I was planning on reading my
10 comments today, so I went through and shortened everything.

11 But first, we would like to congratulate the
12 insurance commissioner and the Department of Insurance for
13 trying to tackle this huge greenhouse gas emitter that is
14 transportation in the state of California. It produces 28
15 percent -- personal transportation produces 28 percent of
16 California's greenhouse gasses, and this is something we
17 have control over every day of our lives.

18 The pay-as-you-drive insurance regulations try to
19 get at that, but still these regulations should take
20 further steps to ensure that pay-as-you-drive insurance
21 meets its promise for environmental benefits and consumer
22 cost savings in California.

23 A study by the Brookings Institute (sic) showed
24 that nearly two-thirds of households in California would
25 have lower premiums under pay-as-you-drive, saving an

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1 average of \$276 per vehicle per year.

2 Low-income drivers have the most to gain.

3 Every household income group making less than
4 \$47,500 a year saves money on average. That's every
5 household and income group.

6 Even in higher-income groups, more than half of
7 all households saved money. Just as many rural drivers
8 would save as urban drivers would because geography is a
9 key factor in determining insurance rates.

10 All drivers would benefit from decreased accidents
11 because driving less makes driving safer.

12 All of these statistics from the Brookings
13 institution assumed that pay-as-you-drive insurance was
14 offered -- was implemented universally in the state of
15 California.

16 In addition to these huge benefits for the
17 environment and huge savings for consumers,
18 pay-as-you-drive offers huge savings to the insurance
19 industry.

20 The problem is that externalities create a barrier
21 until it is a widespread practice.

22 Research shows that the greater the market
23 penetration of pay-as-you-drive, the more accident
24 externalities of subsequence are reduced, increasing
25 monetary savings for insurance companies.

1 Each driver that reduces their savings -- reduces
2 their driving saves themselves the potential cost of
3 getting in accident and also reduces the risk that drivers
4 around them will get into an accident.

5 Drivers who choose not to reduce their driving
6 benefit from the other drivers' conscious decision to drive
7 less.

8 On a larger scale, insurance companies that
9 encourage reductions in driving by offering a
10 pay-as-you-drive product provided uncompensated benefit to
11 other insurance companies.

12 Conversely, when all insurance companies provide
13 pay-as-you-drive insurance, all insurance companies
14 mutually benefit.

15 If pay-as-you-drive is voluntary, the first
16 several insurance companies who offer pay-as-you-drive
17 programs will take more risks that their costs will not be
18 outweighed by their gains.

19 Insurance companies incur some monetary costs
20 associated with pay-as-you-drive insurance, but studies
21 show that these costs are far outweighed by gains from
22 reduced accident payouts when pay-as-you-drive is adopted
23 on a large scale.

24 While individual insurance companies will save
25 money by implementing a pay-as-you-drive program, it also

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1 bears the cost of monitoring when many of the gains are
2 external.

3 When pay-as-you-drive is implemented on a larger
4 scale, that insurance company also benefits from the other
5 insurer's program and saves substantially more money in
6 reduced accident payout.

7 The way to overcome this initial barrier to
8 pay-as-you-drive insurance is to increase its market
9 penetration.

10 There are many ways to boost market penetration of
11 pay-as-you-drive programs, but most are impractical due to
12 the current economic situation.

13 For example, the state could finance research
14 programs, pay insurance companies pay-as-you-drive policy
15 development costs, cover all or part of equipment costs,
16 reward -- or reward insurance -- insurers for each
17 pay-as-you-drive policy.

18 Unfortunately, we're all more than aware that the
19 state is in a little bit of an economic crisis right now,
20 including a budget crisis.

21 So currently, the only option available to insure
22 that pay-as-you-drive policies are widely adopted in
23 California is to mandate basic mileage verification and
24 pay-as-you-drive insurance pricing.

25 This option will move the chicken-and-the-egg

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1 problem that externalities prevent the initial adoption of
2 pay-as-you-drive insurance.

3 More information about how to go about this is in
4 my written comments, so I will not go into that, but I
5 encourage you to read them, and thank you very much.

6 MR. GOODELL: Thank you. As I did say, we will
7 read all of the written comments. We will summarize them,
8 and we will respond to them.

9 So our next speaker will be Deborah Pierce.

10 MS. PIERCE: My name is Deborah Pierce. My name
11 is spelled P-i-e-r-c-e. I'm with Privacy Activism. It's a
12 nonprofit, and we are in the business of taking care of
13 consumer privacy issues.

14 A lot of the points that I was going to make have
15 already been stated, so I am going to reiterate those.

16 I just want to state that mileage only is what we
17 think is best, also that there should be no secondary
18 usages of that information that's gathered.

19 What we've heard today already, a lot of companies
20 want to be able to have extra factors that they use to rate
21 drivers, and last time at the workshop, we heard from a lot
22 of different startup companies who wanted to be able to
23 come to California and work this market, and in fact, they
24 regarded a lot of our personal information as data
25 opportunities, and so obviously, when I hear that, I'm

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1 thinking, no, we need to have the more restrictive usage
2 than what we currently have.

3 Also, just in terms of the data collected,
4 gathering the minimum amount of information is usually
5 best.

6 When I think about databases in terms of what
7 we're talking about with expanded factors, to keep track of
8 all of the information, the more information you track, the
9 more of a risk there is that that information is going to
10 get out.

11 And I have been tracking data breaches for the
12 last number of years, and we have on average two per week.

13 And so I haven't heard anything here about how any
14 of the companies would protect that information. I have
15 heard nothing about fair information practices, which is
16 something that we use, whether it's opt-in, opt-out,
17 choice, security, redress if that information gets out.

18 So rather than open up all of that can of worms, I
19 think that starting -- staying where we are right now with
20 mileage only without all of the other additional factors is
21 a good place to start, and it's privacy-protected as well.

22 Thank you.

23 MR. GOODELL: Did you submit a written comment?

24 MS. PIERCE: Yes. Privacy Activism submitted
25 comments along with Privacy Rights Clearinghouse.

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1 MR. GOODELL: Thank you.

2 Glenn Connely.

3 MR. CONNELLY: Good morning. Can you hear me all
4 right?

5 MR. GOODELL: Yes.

6 MR. CONNELLY: My name is Glenn Connely. I'm with
7 the East Bay group called Friends of Bus Rapid Transit,
8 short we say BRT. It's a bus system with dedicated lanes
9 which AC transit is proposing to build in the East Bay for
10 \$250,000,000.

11 Anything that reduces vehicle miles traveled will
12 clearly improve transit operations. I want to make that
13 clear. For that reason, we urge you support this.

14 Furthermore, there is a connection, as both NRDC
15 and Environmental Defense has pointed out to you, between
16 global warming and the insurance system, something which is
17 not clear, I'm sure, to the public at large by now, but I
18 think hopefully it will soon become clear to people that
19 they need to make the connection.

20 You have an opportunity to help the state to
21 comply with AB-32 by implementing insurance systems that
22 minimize vehicle miles traveled and greenhouse gas
23 emissions in the automobile use.

24 Yesterday, Sacramento Bee reported on the
25 disappearance of the Sierra Glaciers, which is going to

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1 impact our water supply, and I am just reminding you that
2 we are not just talking about auto insurance here. We have
3 a much bigger problem.

4 According to the Brookings Institution, as Justin
5 Horner of NRDC pointed out, the greenhouse gas emissions
6 can be reduced by eight percent with mandatory P-A-Y-D. I
7 think that's the number that's being used.

8 Since auto travel accounts for 30 percent or 28
9 percent, as Laura Novarro said, of California greenhouse
10 gas emissions, mandatory pay-as-you-drive has the potential
11 of reducing these emissions by two and a half percent,
12 which is a huge amount.

13 I've heard figures that this may be equivalent to
14 taking a million cars off the road.

15 At any rate, we urge you to keep AB-32 in mind as
16 you draft these regulations.

17 What we hope will be the greenest insurance
18 possible for the state of California.

19 Thank you very much.

20 MR. GOODELL: Thank you.

21 Ed Pike.

22 MR. PIKE: I'm a little taller, so -- let's see.
23 Can everyone hear this okay? Okay.

24 First of all, I would like to thank you for your
25 efforts on reducing greenhouse gas emissions from

0053

1 transportation as well as making insurance fair.

2 Transportation is -- oh, excuse me.

3 My name is Ed Pike. That's P-i-k-e. I'm with the
4 International Counsel on Clean Transportation. Sorry.

5 Transportation is the largest source of greenhouse
6 gas emissions in California.

7 Today, what I would like to do is to summarize
8 comments from the president of the International Counsel on
9 Clean Transportation, Dr. Allen Moid (phonetic). He is the
10 chair of the economic and technology advancement advisory
11 committee created under California's Global Warming
12 Solutions Act, and the letter is also signed by Dr. Bob
13 Epstein, who is the cofounder of Environment Entrepreneurs
14 and the vice chair of the etack (phonetic) committee.

15 We would like to support your efforts to allow
16 verification of mileage and overcome lack of confidence by
17 insurers in the mileage information they receive from
18 customers, but we think that it's important to go beyond
19 that to actually require that all insurers allow their
20 customers to choose mileage-based insurance, and if a
21 company wishes to offer only mileage-based insurance, they
22 should be allowed to do so.

23 And while we don't repeat it in this letter, we
24 also note previously the importance of appropriate privacy
25 protections to go along with mileage-based insurance.

0054

1 Environmental Defense Fund mentioned the
2 externality benefits of mileage-based insurance. In other
3 words, those benefits that don't accrue directly to the
4 company that writes that insurance policy shared with their
5 insureds.

6 And we used a model developed for another project
7 of Santa Clara County -- it covers about 80 percent of
8 Santa Clara County -- to look at what some of those
9 externality benefits would be from -- let's say we got to
10 100 percent implementation of mileage-based insurance, as a
11 test case, and the model covers approximately 80 percent of
12 Santa Clara County.

13 And based on our preliminary analysis, the
14 benefits would be very large. The climate-change CO2
15 emission reductions would be between 180,000 tons per year
16 and 360,000 tons per year, and that's equal to taking
17 30,000 to 60,000 cars off the roads. So that would be a
18 very important component of addressing climate change.

19 And in terms of looking at how much of the
20 benefits of mileage-based insurance would apply to an
21 individual insurance company and their policyholder versus
22 those that wouldn't be captured by them directly, the
23 initial results of the study show that the total benefits
24 would be between \$170,000,000 per year to \$250,000,000 per
25 year.

0055

1 So that's environmental benefits, greenhouse gas
2 benefits, congestional charge benefits, the portion of the
3 policy savings that the person holds who has the
4 pay-as-you-drive insurance policy.

5 The model was developed for another purpose, so
6 it doesn't include the important benefits that EDF has
7 mentioned to the insurance system as a whole, and also I
8 would add, too, uninsured drivers who are less likely to be
9 involved in an accident with someone who has insufficient
10 insurance who chooses not to drive due to pay-as-you-drive
11 or mileage-based insurance.

12 So based on this study, the ratio of the benefits
13 that would accrue to air emissions or society as a whole
14 would outweigh the benefits to the individual driver are
15 more than five to one.

16 So you can see that a purely voluntary system may
17 not be effective because much of the benefit would not be
18 received by the individual company that may bear the cost
19 of setting up a system and doing the verification and so
20 on.

21 Whereas, if all companies offer it, then they all
22 are all sharing in the cost, and they are also sharing in
23 the benefits as well as providing, you know, the greenhouse
24 gas benefits and other societal benefits.

25 So one other point that I would like to mention is

0056

1 that there was suggestion of low-income drivers, and one
2 point of interest in the Brookings study is that low-income
3 drivers do tend to drive less, so they, you know,
4 potentially could benefit from pay-as-you-drive insurance.
5 It's nothing we looked at. We didn't specifically examine
6 low-income drivers, so I just wanted to note the statistics
7 on driving.

8 So in conclusion, we support your efforts on
9 implementing mileage-based insurance or pay-as-you-drive
10 insurance, and we think that it should be mandatory that
11 all insurers allow their customers to choose this option.
12 Thank you.

13 MR. GOODELL: Thank you. We have three people who
14 indicated that they might like to speak and they might not
15 want to speak. Before we go there, however, I want to ask
16 the court reporter how we are doing in terms of -- does he
17 need to take a break.

18 THE REPORTER: I'm fine.

19 MR. GOODELL: All right. Then we come to the next
20 point I need to make, which I did not have my glasses when
21 I was transcribing all of your names, and so these -- some
22 of these I'm not certain of, but let me ask if Alice Bisno
23 is in the audience and would like to speak.

24 MS. BISNO: Very briefly.

25 MR. GOODELL: And please correct my pronunciation

0057

1 if I got it wrong.

2 MS. BISNO: No, you did fine. It's Alice Bisno,
3 B-, as in boy, i-s-n-o. I'm with the Auto Club of Southern
4 California, and we have submitted written comments by
5 e-mail.

6 AUDIENCE MEMBER: We can't hear you.

7 MR. GOODELL: Maybe you could speak a little
8 closer to the mike and little slower probably.

9 MS. BISNO: Alice Bisno, Auto Club of Southern
10 California. We submitted comments by e-mail.

11 MR. GOODELL: I'm sorry. Did you spell your name
12 for the reporter? You did, okay.

13 MS. BISNO: Yes.

14 MR. GOODELL: Thank you.

15 MS. BISNO: And we will leave another copy this
16 afternoon -- this morning.

17 The only point I wanted to make that is in the
18 letter also is that we would like the regulation amended to
19 make sure that one of the sources of odometer information
20 is the policyholder, him or herself.

21 We actually do have pretty discrete bans on
22 mileage right now, and we do talk to our policyholders and
23 get odometer information right now.

24 We would like to see that kind of system be
25 allowed to continue under this plan where we could subject

0058

1 the information to external verification through the
2 sources identified in the regulation plus we would also
3 endorse expanding it to some others and being able to price
4 accordingly.

5 Providing a pricing incentive, we believe will
6 encourage people to allow us to verify the information when
7 we need to, will encourage them to give us the information,
8 and provide even more accurate information than we get
9 right now.

10 So thank you and the rest of our comments will
11 speak for themselves.

12 MR. GOODELL: Great. Thank you.

13 Fred Blumer.

14 MR. BLUMER: Good morning. My name is Fred
15 Blumer. It's B-l-u-m-e-r, and I am with Hughes Telematics.

16 First, I do want to commend the California
17 Department of Insurance for taking the initiative to fully
18 explore and to initiate some usage-based insurance
19 proposals in the state of California, and I wanted to take
20 an opportunity to address briefly some of the technology
21 sides of this opportunity since, I believe, I'm probably
22 one of the few technology people that are here in the room
23 today.

24 Hughes Telematics provides telematic systems
25 similar to OnStar for Mercedes-Benz and for Chrysler, and

0059

1 we also have after-market telematic systems for cars that
2 don't have telematics programs.

3 In the next five years, we anticipate that all new
4 automobiles in the United States will have embedded
5 technology and telematic systems in them, enabling the
6 reporting of things like annual mileage and odometer
7 readings as well as other types of data from vehicles, so
8 this is a timely step that the state of California is
9 doing.

10 These types of systems enable consumer
11 empowerment, and as with this current proposal to measure
12 miles driven by customers, it also enables customers to
13 have consumer choice for things like auto repairs, miles
14 per gallon, to be able to monitor how they are driving,
15 emissions from their own vehicles to see how those operate
16 on a daily basis, things like insurance savings and
17 personal safety. So the technology is there today and will
18 become ubiquitous, we believe, certainly in new cars, in
19 the very near future.

20 We would certainly urge that any usage-based
21 insurance programs be voluntary and with full consumer
22 consent and consumer knowledge.

23 We would also recommend that, in the light of
24 consumer choice and consumer empowerment, that in the
25 future, more ratings opportunities be available such as how

0060

1 people drive in addition to just mileage.

2 As we have been studying the usage-base insurance
3 marketplace, we're concerned about the disadvantaged in
4 society that typically live further away from their
5 workplaces and are concerned about them being penalized for
6 mileage-based systems only.

7 So we would finally, and in conclusion, certainly
8 encourage the commission to look at any kind of technology
9 that would enable people to have more customer choice with
10 regard to their insurance and to have opportunities to be
11 rewarded for driving more safely.

12 Thank you.

13 MR. GOODELL: Thank you.

14 Is it Walter Smith?

15 MR. SMITH: Yes. My name is Walter Smith,
16 S-m-i-t-h. I have a consulting firm, Quetzal,
17 Q-u-e-t-z-a-l, Management Corporation.

18 And Mr. Frazier has reduced my talk from five
19 minutes to three minutes because he covered many good
20 points. I never heard him speak before.

21 When Prop 103 went into effect, I thought that was
22 very bad law. It has produced tremendous good results.
23 It's made rating more of a science, if nothing more than
24 the fact that filings are required for approval by the
25 Department of Insurance. However, I worry about mileage.

0061

1 I think mileage should be verified. I don't think it
2 should be an option, and I think it should be by
3 independent sources.

4 The -- further, much of the way it appears to be
5 approached now, makes it the most dominant rating factor,
6 which is contrary to Prop 103, and in fact, it shouldn't
7 be. Mileage is not the most dominant reason at risk when
8 accidents occur.

9 Prop 103 itself, by design, said the driver safety
10 record is the most dominant rating factor.

11 While all of the comments on green environment
12 make the inconvenient truth become more acceptable as a
13 concern, and I agree with that, there's other things
14 happening at the same time that were contrary to this.

15 For instance, we implore manufacturers to make
16 cars that will, instead of giving us 25 to 30 miles per
17 gallon, to give us 50, 60, or 70, which will allow more
18 miles to be driven, because America is pretty well wed to
19 the automobile use, if it can afford it.

20 I'm concerned about making sure that whatever is
21 developed still recognizes a good-driver discount, which
22 was the primary voting factor for the passage of
23 Proposition 103, remains in place, which means whenever you
24 develop a rate, those who qualify for the good-driver
25 discount get that required discount.

0062

1 Mileage, the number-two rating factor is the only
2 one that doesn't affect the qualification for a good
3 driver. Driver safety record does. Years of driving
4 experience does. You must have at least three, but mileage
5 does not. You can be a good driver if you drive 2,000
6 miles a year or 100,000 miles a year.

7 And last, please keep in mind that of the -- what
8 is it -- \$20 billion of profitable automobile insurance is
9 enforced at this time, you will really affect how carriers
10 enforce business by applying these new rules, whatever they
11 are, and let's say they are brilliant and acceptable, to
12 enforce business, which those companies have an obligation
13 to their shareholders for the prior investment not to be
14 distorted unfairly.

15 I support what the Department of Insurance
16 commissioner is trying do.

17 I just wanted to make those factors on the record,
18 and again, appreciate that Mr. Frazier saved you time in
19 listening to me.

20 MR. GOODELL: Thank you very much. Okay.

21 Is there anyone I missed or anyone who wanted to
22 speak today who has not had an opportunity? Is there
23 anyone who wanted to respond to anything anyone else has
24 said? All right. Well, I will -- yes.

25 MR. GAY. If I may, I would like to respond to a

0063

1 couple.

2 MR. GOODELL: Please.

3 MR. GAY: Thank you. It's a little awkward setup
4 when you -- with your shoulder to the audience behind us.

5 MR. GOODELL: And I will just interrupt you. This
6 is Chris Gay speaking again.

7 MR. GAY: I got the head nod, so I assumed I was
8 okay.

9 MR. GOODELL: All right. I didn't see it.

10 MR. GAY: For the record, Chris Gay, MileMeter
11 Insurance Company.

12 In the comments this morning, I think there is one
13 emotion that's very clear on both sides of the aisle. As
14 my cousin would say, I smell fear, right, both sides. It's
15 an industry that's afraid to tackle this opportunity, and
16 there are consumer that's are afraid the industry will take
17 advantage of it, take advantage of consumers, to enact
18 things that are detrimental to consumer and citizens'
19 interests.

20 When we started MileMeter, we did it as people
21 just like you in the audience and the panel. We did it
22 without any insurance background, but we partnered with
23 people in the insurance industry, and now, we're part of
24 the insurance industry.

25 But I would like to say, for the record, the fear

0064

1 is not needed. There's an opportunity for the government
2 to benefit, to implement its climate change objectives.

3 It's an opportunity for transportation projects to
4 benefit from reduced congestion.

5 There's an opportunity for environmental groups.
6 By the way, I was once a card-carrying member.

7 There's an opportunity for environmental groups to
8 see their objectives met.

9 Consumer privacy does not have to be trampled
10 upon. This is one scenario where you can have your cake
11 and eat it, too, whether you represent the department or
12 you represent the citizenry in some way, shape, or form, or
13 you represent the industry.

14 The market will respond to inefficiencies and has
15 responded to the inefficiencies present in the current
16 system.

17 While I'm out of state, that doesn't mean I don't
18 care about what happens in California. I care very deeply
19 and passionately and personally what happens in the state,
20 and I sincerely want and my team sincerely wants to see the
21 best outcome from your proposed regulations, and
22 ultimately, the best market adoption.

23 We have the power to choose, and you have been
24 given the power by the people and the commissioner to
25 oversee that choice and to make sure it stays within the

0065

1 boundaries of the commissioner's intent and the needs of
2 our state and, most importantly, the needs of our nation.

3 So while there is disagreement about the best way
4 to go forward, I can assure you there is a way to do so in
5 partnership with all of the interested organizations and
6 stakeholders that will result in a beneficial outcome for
7 you, the department, and your state.

8 Thank you.

9 MR. GOODELL: Thank you. Is there anyone else,
10 dare I ask, who wants to speak today? Okay.

11 With that, that will draw this hearing to a close.

12 I want to thank everybody for coming.

13 I will just repeat again, we will be reviewing all
14 comments that are made, both written and oral. We will
15 review them, summarize, and respond to them. They are all
16 part of public record.

17 Again, thank you for coming.

18 (End of proceedings at 11:37 A.M.)

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1 STATE OF CALIFORNIA)
) SS:
2 CITY AND COUNTY OF SAN FRANCISCO)

3

4 I, Michael Cundy, CSR NO. 12271, a
5 Certified Shorthand Reporter of the State of California, do
6 hereby certify:

7 That the foregoing proceedings were taken
8 before me at the time and place herein set forth; that a
9 verbatim record of the proceedings was made by me using
10 machine shorthand which was thereafter transcribed under my
11 direction; further, that the foregoing is an accurate
12 transcription thereof.

13 I further certify that I am neither
14 financially interested in the action nor a relative or
15 employee of any attorney or any of the parties.

16 IN WITNESS WHEREOF, I have this date
17 subscribed my name.

18

19 Dated: _____

20

21

Michael Cundy, CSR NO. 12271

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