

UK's FCA Weighs in on Insurers' Use of Big Data

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On September 21, the United Kingdom's financial regulator, the Financial Conduct Authority (FCA), released a "Feedback Statement" after completing a review of insurance industry responses to its November 2015 "Call for Inputs" on insurers' use of Big Data. The Feedback Statement addresses two areas of concern identified by the FCA regarding insurers' use of Big Data, the FCA's next steps, and considerations for insurers using Big Data.

AREAS OF CONCERN

The FCA found that "Big Data is bringing a range of benefits to consumers, reducing form-filling, streamlining sales and claims processes, and allowing firms to develop more personalized products to serve customers' needs. In addition, telematics products can provide feedback to consumers to help them manage their risk, lowering insurance costs." However, the FCA "identified two areas where increased use of Big Data has the potential for mixed outcomes with cause for concern that some consumers may be worse off:" (i) Risk Segmentation, and (ii) Pricing Practices.

Risk Segmentation

The Feedback Statement notes that "Big Data has the potential to increase risk segmentation, because it can be used to model a consumer's risk profile more accurately, in order to calculate a more accurate premium." Risk segmentation "might benefit some members of groups that are currently perceived to be higher risk, e.g. older or disabled consumers, who can demonstrate that their risk is lower than simpler risk models may assume." However, the FCA expressed concern that "it could also result in categories of consumers with higher risks that are no longer able to obtain or afford insurance for the risk they represent." The FCA noted that "there is a tension between what may be desirable from a **social policy** perspective and of the public good, and the commercial reality that firms will not . . . **offer insurance that is not economic to supply.**" The FCA suggested that the government, regulators, and other stakeholders work together in deciding "when to require that customers be offered insurance."

Pricing Practices

The Feedback Statement describes price discrimination and price optimization pricing practices where insurers "charge different prices to different, but similar, consumers for reasons other than risk and cost." The FCA notes that price discrimination "is not necessarily problematic, but in some circumstances it can lead to concerns about the outcomes for consumers." The FCA expressed "consumer protection concerns, if those who face higher prices tend to be vulnerable or older consumers" and "competition concerns . . . if pricing for reasons other than cost and risk creates barriers to entry or (at an extreme) forces other firms to exit the market."

FCA NEXT STEPS

The FCA has determined that a full market study and changes to its regulatory framework are not necessary at this time, however, going forward it plans to:

- Host a roundtable with the Information Commissioner's Office, the regulator responsible for firms' compliance with data protection legislation, to discuss the increased use of data sources and what data protection risks arise as a result.
- Look at the pricing practices in a limited number of insurance companies this year, to better understand developments in the market.

- Stay up to date with Big Data innovations and developments in the market.

CONSIDERATIONS FOR INSURERS USING BIG DATA

The FCA discussed considerations for insurers using Big Data in developing underwriting and pricing models. According to the FCA, insurers using Big Data should:

1. "Obtain the individual's consent to their personal data being collected and used in the manner and for the purposes in question" so that the individual "has the required level of understanding about how the firm is using the data.
2. Consider whether it is fair to use data points "which a consumer has no control over (the use of genetics in health insurance)" as opposed to using data points like "poor driving which the consumer has more control over."

The FCA's findings and considerations for insurers using Big Data echo many of the concerns voiced by consumer advocacy groups at recent meetings of the NAIC Big Data Working Group and by the President's and Federal Trade Commission's recent reports on Big Data.

Carlton Fields Jordan Burt, P.A., will continue monitoring further developments regarding the use of Big Data by insurance companies.

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