

## **Sharp Disagreement At NAIC Session On Readability Of Consumer Information**

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Industry representatives sharply disagreed with two law professors who argued personal lines policies should be posted online where they would be readily available to consumers who wanted to look at them prior to signing onto them. Spokesmen for the American Insurance Association and the National Association of Mutual Insurance Companies argued that while the idea may sound good, it could make the process more confusing for consumers.

That debate was put on full display during a session of the National Association of Insurance Commissioners' fall meeting that focused on transparency and readability of consumer information. Peter Kochenburger of the University of Connecticut School of Law and Daniel Schwarcz of the University of Minnesota School of Law said with the state of technology, it makes sense for insurance policies to be posted on the Internet.

"It's one of the basic tenants of common law contracts that both parties should be aware of the terms before entering into the contract. But often it is weeks or months after the contract is signed that the policy is made available to a consumer," Kochenburger said. "Credit card companies are now required to put the terms of their contracts online. Why shouldn't insurance companies?"

Amy Bach, executive director of United Policyholders and a consumer representative for the NAIC, echoed that position, saying insurance companies could identify key elements that could be made more understandable for consumers, who often complain that policy language is too confusing.

But David Snyder, AIA vice president and associate general counsel, said posting insurance policies online may spawn "misinformation" in the marketplace. "Insurance policies have a lot of technical language by necessity, which might tend toward misinformation and confusion if there aren't people there to help consumers understand it. People like agents and brokers," Snyder said.

Snyder said agents and brokers can help consumers by pointing them to fundamental questions they should be asking. "The interest of consumers is a fundamental concern of ours. And what consumers want to know is if a certain situation arises, will they be covered," Snyder said. "A checklist of common

scenarios could be very beneficial.”

Schwarcz countered it was “ridiculous” to say “consumers have no right to see their policies.”

“The irony is that insurers say they need to have a right to create different forms with different language in the interest of competition. But God forbid consumers have a right to see those different policies,” Schwarcz said, adding posting the policies online would allow consumer watchdogs to examine policies to determine which companies may be overreaching.

“These consumer organizations could then levy reputational fines on companies that are acting unfairly,” Schwarcz said.

Bob Detlefsen , vice president of public policy at NAMIC, questioned whether those consumer organizations would even be qualified to say whether a company was acting unfairly. Besides, there simply hasn’t been a demand from consumers to see their policies, Detlefsen said.

“The market works quite well. Economic theory would predict that if there was a demand for that information, companies would respond by making those policies available to stay competitive. We just haven’t seen that demand,” Detlefsen said.

After the session, David Kodama , senior director of research and policy analysis for the Property Casualty Insurance Association of America, said in an email his organization would continue to work to develop a means of better informing insurance consumers about the options available to them. “We believe that the stated goals by today’s speakers misdirect the working group’s efforts and could be more harmful to the insurance marketplace — that is, allowing a subjective determination to dictate the terms and conditions offered by the market,” Kodama said.