



FAIR Association of Victims for Accident Insurance Reform
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Mr. Brian Mills, Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge St, 17th Floor, P.O. Box 85
North York, ON, M2N 6L9
Sent by email

Dear Mr. Mills

Thank you for your response dated May 9, 2017. Unfortunately your letter did not address our concern for Ontario's car accident victims whose privacy is being compromised by insurers who are using credit reports to adjust injury claims.

The Federal Privacy Commissioner "is unable to find that a reasonable person would consider The Personal's collection and use of credit score for preventing and detecting fraud during the auto insurance claim assessment process to be reasonable". The problem is that The Personal is not the only insurance company in Ontario that isn't obtaining meaningful or informed consent when collecting credit information and/or using it during an injury claim.

What about Ontario's other auto insurers and their adjusters whose practices appear to mirror The Personal's model of gathering private, personal information to unjustly 'adjust' injury claims? The problem with uninformed consumers and lack of clarity in the regulations when it comes to the use of credit information was identified in 2012 by the Canadian Council of Insurance Regulators (CCIR) (link below). This recent PIPEDA decision provides the guidance in respect to insurer use of credit score information and what is expected by the Privacy Commission to protect Ontario's car vulnerable accident claimants.

Respectfully an informational Advisory and/or inclusion on the FSCO website should apply to all insurers who may be using similar claims handling practices. This not only clarifies the expectations of the Regulator but also informs the public whose personal information is at risk. Ontario's insurers ought to know. Consumers ought to know. Is the Superintendent's office going to inform them?

I look forward to hearing back from your office in respect to our concerns.

Sincerely,

Rhona DesRoches
FAIR, Board Chair

CCIR Credit Scoring Findings Report https://www.ccir-ccra.org/en/init/credit_scor/Credit_Scoring_Findings_Report_EN.pdf

Industry best practices guidelines On January 20, 2010, the Insurance Bureau of Canada (IBC) issued a Code of Conduct for Insurers' Use of Credit Information intended to provide insurers who use credit information as part of their underwriting activities with clear guidelines based on fundamental principles of consumer protection and applicable federal and provincial laws. The IBC guidelines deal with, among other things, obtaining informed consent from a consumer before using his/her credit information, making sure the underlying credit information from which a score is calculated is accurate and up-to-date, and notifying consumers if an adverse decision is taken based on credit information or a credit score. The IBC guidelines, however, are voluntary.

Summary of key comments from submissions:

- Insurers claim that while the IBC code is voluntary, 85% of personal lines market share of IBC and CADRI members have made a commitment to adhere to the Code.
- Brokers acknowledge the existence of the IBC Code but claim there is no accountability or transparency as to whether insurers follow the Code. For example, there is great variation today on how consent is obtained, and how insurers involve their brokers to obtain consent.

http://assets.ibc.ca/Documents/Consumer%20Protection/Code_of_Conduct.pdf