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CONSUMER/CONSUMERIST TRENDS AND THEIR ACTUARIAL IMPLICATIONS

Moderator: BARTLEY L. MUNSON. Panelists: DAPHNE D. BARTLETT, CHARLES C. BLACK, DANIEL F. CASE, CHARLES N. WALKER.

1. U.S. Senate's Consumer Insurance Information and Fairness Act.

2. NAIC cost comparison and disclosure.

3. Classification of risks as related to:
   a. Growing feeling of entitlement.
   b. Changing life styles.
   c. Confidentiality of information and distrust of institutions.
   d. Definition of equity classes.

4. Availability of coverages.

5. Canadian developments, including Ontario Insurance Study (Carruthers' Report).

MRS. DAPHNE D. BARTLETT: The first topic on the program is the U. S. Senate's Consumer Information and Fairness Act, known more colloquially as the Hart Bill. The current status of this bill is that it is languishing in the Senate Commerce Committee. Hearings were originally scheduled for this summer. It would appear now that no hearings will be held before the November election, and the most likely prognosis of this bill is that nothing will ever happen to it.

There is another bill that is not mentioned on the program, which is the one introduced by Senator Stone on the use of the Belth Company Retention Method for comparing the costs of conversions for veterans of their group life insurance program. This bill has made a little more progress than did the Hart bill. Currently, it is being redrafted, probably to utilize the Interest-Adjusted Method rather than the Company Retention Method. Hearings may begin fairly soon.

The next topic is the National Association of Insurance Commissioners (NAIC) cost comparison and disclosure regulations. The NAIC has come out with its final version of a model regulation on cost comparisons and disclosure. It was announced in May that the regulation was adopted. It was accompanied by a plea from the NAIC that uniform adoption by all regulatory jurisdictions would be made in the near future.

This statement appears to include some good news and some bad news. Those of us who have suffered through compliance with the multitude of different cost comparison regulations in the last several years will be happy to hear that uniform adoption is being encouraged.

The bad news is the statement "near future." Already the State of Iowa (which is the home state of Bill Huff, Commissioner, and his actuary, Dan Andersen, the former being the chairman of the NAIC subcommittee that drafted

this regulation) has proposed implementation of the regulation with a target date of January 1, 1977. There is much work involved in implementing this new regulation, and January 1 is too close for comfort.

There was a hearing in Iowa on May 24. The latest information I have is that the implementation date will be postponed to at least July 1, 1977. There is some pressure in the industry to have it delayed to January 1, 1978. I am a little concerned about any pressure for delay beyond a practical period of time because it would indicate to the regulators that the industry is dragging its feet on the matter. A year is probably enough time for just about everyone to comply.

I will briefly cover the highlights of the model bill. It uses a 5 percent interest rate in the Interest-Adjusted calculation, rather than the 4 percent rate that most of us are familiar with. (In Canada, 5 percent has been used for some time.) The regulation has been extended to cover policies with varying face amounts by a modification of the Interest-Adjusted formula. It also covers term insurance, both level and decreasing.

The model bill requires separate indices for policies and all insurance riders attached to a particular policy. So if you are buying a whole life policy with a decreasing term rider, the company will be required to provide at least two sets of indices, one for the policy and one for the rider. One set of indices will be the tenth and twentieth year Interest-Adjusted Cost indices, now officially called the "Life Insurance Surrender Cost Index." Payment indices for 10 and 20 years are called the "Life Insurance Net Payment Cost Index."

The Equivalent Level Annual Dividend has been restored to the model after it was taken out of the December draft. The American Life Insurance Association (ALIA) committee decided to push for its restoration in order that a measure of the degree of guarantee in participating policies could be made. Obviously, you cannot put an exact figure on the likelihood of payment of an illustrated dividend scale, but at least the presence of the equivalent annual level dividend does give the policyholder an opportunity to find out what his cost might be if the dividend scale were not exactly realized, in one direction or the other.

The exclusions from compliance with the new regulation have been reduced considerably. The only current exclusions are annuities, credit insurance, group life, policies issued under the Employees Retirement Income Security Act of 1974 (ERISA), and variable life.

One very significant change in the new regulation is the introduction of rather tough requirements for disclosure. There are two major items in this category, although they are somewhat less complicated for policies of $5000 and less.

Speaking for a larger policy, there will be a requirement for a Buyer's Guide to be supplied to the policyholder. This is a little booklet that has been prepared by the Institute of Life Insurance for the NAIC. It describes the various types of insurance, the difference between participating and nonparticipating insurance, the difference between term insurance and whole life insurance, and so on. It is written rather nicely in simple language that the policyholder can understand, with a description of the indices and how they should be used.

The other item that must be provided is a Policy Summary. This is required to be provided on a per policy basis, not per thousand of insurance. Occidental just this year went to a policy form basis that has the cash values calculated at the time of issue and that shows the cash values for the specific face amount of the policy. We did not have our cash values on our computer until early last year, and I am sure that for smaller companies this might be quite a burden to get all of their cash value files computerized.

This type of disclosure obviously is much more complex than has been required in the past. As the impact of the model regulation gets around the country, there may be some screams of protest about the cost involved in setting up the system.

I would like to urge all of you, as actuaries, to spread the word that a long, hard, laborious process has been followed to develop what might not be the simplest regulation in the world; but it is a good regulation. It covers many things that were missing in earlier regulations. It makes a very good and solid attempt to compare the costs of policies. The industry, the actuarial profession and others worked very well with the regulators in designing it. In working together, we made recommendations on the ALIA cost comparison committee to the NAIC, and they heeded those recommendations and reacted to them.

Since some form of cost comparison and disclosure regulation was probably inevitable, I think we have now reached the point where we must stop fighting it and implement it. It remains to be seen whether the public is really going to do anything different as a result of this information.

MR. CHARLES N. WALKER: I want to outline what is going on with respect to privacy legislation, both state and federal, and with respect to sex discrimination in the availability of insurance.

First, privacy. Following the initial paroxysmal effort to comply, the Fair Credit Reporting Act has, since its enactment in 1971, worked smoothly and well. It has given consumers an effective method for learning the content of any consumer report which has resulted in personal disadvantage, together with means to correct any inaccuracies which might have occurred. In doing so it has imposed only acceptable constraints and inconveniences on reporting companies and report users.

Efforts to amend the Act in 1973 failed. The 1975 amendments looked for a while as if they would fail and probably still will. They were postponed indefinitely in a hearing in the Banking, Housing and Urban Affairs Committee in markup session last month. They have now come back in front of that committee and will be considered in a markup session next week. The 1973 and 1975 proposed amendments were virtually identical. Four major changes were sought:

1. A separate informed consent containing a much more detailed description of what sorts of information would be obtained.

2. Total disclosure of the contents of reports, including sources of information.

3. Comprehensive description of the uses the company intends to

make of the information it acquires, including a comprehensive list of all future recipients.

4. Regulatory authority for the Federal Trade Commission.

The Fair Credit Reporting Act is rather narrow in scope, dealing only with credit reporting and investigative consumer reporting. Recent activity has also turned to omnibus legislation which would regulate any and all entities who gather any kind of personal information.

Public Law 93-579 was enacted in 1974, regulating the activities of the Federal Government and its agencies. State counterparts, again limited to governmental activities, have been enacted in Minnesota and Massachusetts, and just last week in Ohio. The federal law also established a Privacy Protection Study Commission to make recommendations on whether the principles of the Federal Privacy Act of 1974 should be extended to the private sector. The Commission is making special inquiry in a number of fields. Hearings for the insurance industry were held two weeks ago. The Commission's recommendations are due to be made to the Congress and the President by July of 1977. It would be premature to speculate on what form these might take.

Several omnibus-type bills have been introduced at the federal level. At least two of them have been sponsored by Reps. Edward Koch and Barry Goldwater, Jr., who are members of the Study Commission. In addition, omnibus proposals have been made in at least 15 states, mostly patterned after the federal bills. All have potential for enormous compliance expenses and severe disruptions of our present record-keeping practices.

The other area I want to touch on is sex discrimination in the availability of insurance.

For many years insurance companies made distinctions by sex in their health insurance offerings. Issue limits for women were lower than for men; longer benefit periods and shorter waiting periods were not offered to women; special reductions came into being when disability commenced when not gainfully employed.

Such differences have generally not applied to life coverages -- at least not in formalized fashion -- except in the case of family insurance, which was designed and offered only for the situation where the male was the breadwinner and the female was the dependent.

As part of the larger movement to eliminate sexual discrimination in employment, credit and the like, these distinctions are now perceived by regulators as improper, and regulations forbidding them are now coming into being. These usually take the form of an addition to the Unfair Trade Practices statute, which is the form used for the NAIC model regulation adopted last December. There are technical problems with the drafting, and some degree of ambivalence as to how uncomplicated pregnancy should be handled, but widespread adoption within a short period seems certain. Many companies, in anticipation of this, have already eliminated sexual distinctions.

MR. DANIEL F. CASE: My involvement for ALIA in the area of discrimination is quite recent, but I find that once you get into it, you get quite deeply into it, because events are moving fast.

First, on the matter of classification of risks by sex, the NAIC model regulation that was adopted last December deals with availability of coverage and says that you must make the same coverages available to people regardless of their sex or marital status. The NAIC model does not go into the question of premium rates by sex or anything else, but that is the next subject in the sex area.

We have already seen at least one proposed state regulation (Illinois) that does include something on premium rates by sex. Our problem in dealing with either an NAIC model regulation or individual state regulations that treat premium rates by sex is going to be to get them away from language such as: "Premium rates must be related to actual and credible loss statistics." We must move them more in the direction of something like: "Premium rates must be related to the expected risk of loss based on relevant data."

The importance of this distinction is that past experience is not always directly applicable to the future. You have to apply good, old actuarial judgement and must take trends into account. Furthermore, coverages change, particularly in health insurance, and your experience on coverages that have been offered in the past and on which data have been gathered may not do you much good for coverages that you are introducing now. In addition, you may not have actual and credible loss experience for your own company, and even the Society of Actuaries as a whole may not have actual and credible loss experience for a particular coverage, broken down nicely by age, occupation class, etc.

Now, what do the women's groups who have been appearing at the various hearings hope to get by the promulgation of regulations in this area? One thing that they might reasonably hope to get would be a greater age setback for individual life insurance premium rates -- at least at some ages -- than companies have been giving. Another thing they have specifically asked for is lower rates for individual loss-of-time in disability insurance coverage. The Society of Actuaries has studied that experience, and one thing the women have pointed out that is quite true is that the percentage extra female morbidity under individual loss-of-time coverage varies by age. They resent the fact that some companies, according to them, have not varied their extra charges by age. This is one area where companies might reasonably take a look at their premium rates with a view to possibly refining them for the females.

New York is currently conducting a study of claim experience by sex under individual loss-of-time coverage, with a view to coming up with a basis for a regulation in this area.

Of course, there is the unisex concept which is a trend sort of exactly in the other direction. It is hard for me to discern trends here. It is difficult to know where the next attack is going to come from, and that makes the attacks harder to meet.

As for classification of risks by physical impairment, we have begun to see a number of bills, and even a few proposed regulations, that would inhibit our ability to classify physical risks. One kind of law that we have seen is one that just prohibits you from rejecting or charging an extra premium for a certain impairment such as blindness, for example. Sometimes the word "solely" crops up--for example, "solely" on account of blindness. The best

way of dealing with such a law is to underwrite for causes of blindness, some of which may have really serious implications. If the individual's blindness makes him unable to hold a job, then you can underwrite for lack of insurable interest. Laws like this are a trend that is potentially very dangerous, and we have to resist them.

Another type of bill in this area is one that says you may rate or reject only if you can justify it on the basis of data. Here again the question is what kind of data would be adequate to justify that rating. One requirement we want to avoid is having to furnish vast quantities of data whenever we bring out a new policy or a new underwriting manual, or even having to file underwriting manuals. There are real practical dangers with possibly very burdensome, unreasonable requirements.

It is hard to know what the goals of the promoters of laws like this really are. Are some of these people trying to get a special deal for themselves by saying that we should not be permitted to charge extra for their particular type of impairment? Or do some of these people, such as the blind, just feel that they have not been given a fair shake in the past? I am inclined to think that most of them feel they have not been given a fair shake. We might well make a good faith effort to gather more data if we can. It might be worth the effort and expense in order to improve our image with the public.

A handout that we have here today is a resolution that was adopted by the Boards of both ALIA and HIAA (Health Insurance Association of America) almost exactly two years ago. It is a one-page resolution saying primarily that we believe in classifying risks according to the expected risk of loss. It says we should be able to use mortality and morbidity experience by sex, and we oppose the unisex concept. We do not oppose a requirement which says we must offer the same coverages to both sexes.

When adopting that position two years ago, we stated that the industry should not be required to include benefits for normal pregnancy in health insurance policies. We do recognize that complications of pregnancy are something which might reasonably be covered.

ALIA is preparing now for a maximum effort in the area of underwriting physical risks. We have just formed a task force to see what can be done to head off the spate of potentially very dangerous restrictions on our ability to underwrite physical risks.

MR. CHARLES C. BLACK: There is much going on in Canada in the consumerism area. The Canadian Life Insurance Association (CLIA) held its annual meeting on Monday and Tuesday of this week, and practically the entire meeting was devoted to discussions with various critics and speeches by representatives from the regulatory fields, the consumer critics,and the university area.

In many ways, we have the best of both worlds, or, in this case, perhaps it is the worst of both worlds, in Canada. There is a great deal of spillover from the United States. Of course, we are aware,and our critics are aware, of what is happening here. Sometimes this gives us an opportunity to"proact" rather than react if we know that something is happening in the United States and we anticipate the same thing will happen in Canada. We have a little advance warning and can perhaps take some action. On the other hand, our

Canadian critics are imaginative as well and are able to insert some new wrinkles on the Canadian scene that perhaps do not apply in the United States.

For instance, one very emotional topic among many Canadians is the topic of nationalism. If, as an example, we mention that we use the 1958 CSO mortality table, we can be criticized,not only that it is outdated, but also that it is based on U.S. statistics.

It cuts both ways. The consumerists are quite happy to pick up their ideas from the United States, but they can criticize us if we try to base our action on data accumulated and developed here.

One thing that is different in Canada is our legislative situation. We are not as likely to get advance warning on some of these issues coming up. Instead of having hearings on various issues, often we will find out about them just as the legislation is in the process of being passed. Sometimes we do not even get a copy of the legislation until it has been passed and it is already law. Of course, at that point it is very difficult to change somebody's mind when they have passed a law on the subject.

As I mentioned, the industry has tried to"proact"and take some initiatives. A couple of years ago, for instance, the Canadian Life Insurance Association recommended to member companies that they insert a 10-day free-look provision in all of their policies. They recommended that booklets be developed to be handed out either with the policy or at the time of application which would describe the provisions of the policy in lay language. They also recommended that Interest-Adjusted net cost indices be made available on request. We felt that whatever their merits as cost indices, the best approach was to make them available.

Claim procedures were reviewed. Member companies were urged to pay interest from the date of claim. Member companies were urged to look closely at their commission scales and to pay the same rate of commission on term insurance as on whole life if they could. They were also urged to look closely at the early cash values and to try to resolve some of the criticism of low early cash values, particularly in the Retirement Savings Plan area.

In the privacy area, four of our ten provinces have adopted legislation very similar to the Fair Credit Reporting Act. It is not identical but is very similar. It has been well received and introduced with a minimum of problems. The other six provinces have not yet adopted legislation, but many companies are operating under the same rules across the country. The effect is almost the same as if all provinces had such legislation.

The privacy issue is a sleeper at the moment. There has not been a great deal of activity on an omnibus bill, although just in the last couple of weeks I have seen reference by some of our opposition members in Parliament that there should be such a bill with regard to government records. If they pick up U.S. ideas with respect to government records, it may go further than that.

This is one area where the nationalism issue comes into play. The Medical Information Bureau maintain their records in Boston, Massachusetts. They are very sensitive about this issue because there could be a lot of criticism by some Canadians, some very vocal Canadians, if it was publicized that private data on Canadians was being maintained in a computer file in Boston.

The human rights area has been a large one in which I have been deeply involved. There is legislation on this area in all ten provinces; however,it is really a general type of legislation. There is very little that is specifically oriented toward insurance. It is more general legislation prohibiting discrimination in employment or in services available to the public. At least one province is specific enough to talk about discrimination in contracts. To date, the attention has focused almost exclusively on employee benefits. We have spent considerable time looking at pension plans and group insurance plans, but there has not been much action on individual policies.

Another difference here is that some provinces have said they are not going to go any further than this broad legislation. They will administer it here on a case basis. If a complaint arises, they will administer that complaint and hold hearings, if necessary, to decide on that particular complaint. So we have a situation where we could be whipsawed, and a number of precedents could be set by one particular complaint. We are not too thrilled about that. We would rather have it discussed in advance and have some guidelines to work with.

The availability of disability income is an important issue. It is extremely important that we develop accurate morbidity and mortality statistics and that we make use of them once we have them developed.

Another area I might mention very briefly is insurance for the uninsurable. One criticism that was looked on as a potential danger was that we were not able to offer insurance to all segments of society and that we were rejecting too many applicants. Of course, we have had national health insurance in Canada for many years, and there is some concern that we might have national disability insurance as well, or national life insurance over and above the Canada and Quebec Pension Plans.

The Canadian Association of Accident and Sickness Insurers will be considering next week at its annual meeting a pooling plan that would provide insurance for the uninsurable and would guarantee anyone who has earned income a minimum amount of disability income insurance. The Canadian Life Insurance Association had a committee which studied a similar plan. I believe at the moment it has been put on the shelf, and they have decided not to proceed with it. At least this area has been explored.

One very current item which becomes effective the first of July is a requirement of all provinces except Quebec that the anticipated loss ratio on disability income insurance must be disclosed in three places. First, it must be disclosed on the application form adjacent to the signature. Second, it must be disclosed on the policy adjacent to the recision right provision. Thirdly, it must be disclosed on any advertising or promotion form which discusses the price of the product. A statement such as, "The company anticipates that 55 percent (or whatever the appropriate percentage) of the premiums will be required to pay claims," must be included.

The actuary is saddled with the duty of filing an annual report indicating whether experience has worked out in line with that statement or whether it has deviated from it. If it has deviated, the actuary must explain why it has deviated, and what he is going to do about it. This is a new ballgame, and we are not quite sure how it is going to go. One concern I have is that some companies may just throw up their hands and stop writing disability income insurance. A number of them already have.

Finally, listed on the agenda is a reference to the Ontario Insurance Study which we commonly refer to as the Carruthers Report. This arose a couple of years ago when the Superintendent of Insurance in Ontario, Mr. Gordon Grundy, decided that he was not sure whether their insurance legislation was really up to date. He appointed a lawyer, Douglas Carruthers, to review the insurance legislation and to make recommendations on any changes that were needed to update it. His charge was essentially that broad.

Mr. Carruthers had no previous connection with insurance. I think he did an excellent job when it came to reviewing the law, but he also ventured into recommendations for actions in various consumer areas. If you look at the report you may say it is a very superficial sort of thing and provocative. In a sense it is, but that was really his intent at the time. He really just wanted to provide a list of areas that should be discussed. Mr. Carruthers' view is that this is an initial discussion document, and hopefully discussion from here on in will be helpful. The danger is that some segments may take his recommendations as much firmer than that and push for adoption perhaps sooner than is warranted.

There are three main issues among the many recommendations in his report. One is disclosure which is a very, very big issue. For cost disclosure, he recommends an approach very similar to the Company Retention method and somewhat akin to the loss ratio approach that I mentioned a moment ago.

The second area is intermediaries, the agent relationship. He is concerned that the agent represents the company, not the applicant. There should be a situation where someone could represent the purchaser in a transaction. He proposes a two or three-tiered system where there would be an agent representing the company. Or you could buy through a broker who would not receive a commission. He would receive a fee. Or you could go to a consultant who would give you advice and then you could buy what you wished. Incidentally, in this consultant area, he thinks actuaries would be extremely well qualified for the consultant role. I am not sure actuaries could command fees as high as lawyers in this area, but anyway he thinks we would be well qualified.

The third major issue is self-regulation. Mr. Carruthers proposes that a special committee be established consisting of representatives of various industry groups. This committee would oversee operations of insurers.

On Monday, at the CLIA annual meeting, the minister of the Ontario Government who is responsible for the insurance department mentioned that he has set up a select committee of the legislature to study insurance, the Carruthers Report, and other items. So it is now in the political arena. Over the next two years we will be hearing a great deal more about it. There will be much publicity, much activity, and I am sure there will be a great call on actuaries to substitute facts for impressions.

MR. A. ALLAN GRUSON: I would like to inquire of the panel with respect to the NAIC model bills as to what extent Herb Denenberg's feelings have been incorporated. If they have, has he been a force for betterment?

MRS. BARTLETT: On the subject of sex discrimination, I think that Denenberg's involvement has certainly stimulated the industry to perhaps react a little more positively and earlier to consumerist complaints than might have occurred

otherwise. For example, our company was unable to get a form approved by Pennsylvania because it had different benefit periods for females. Therefore, we developed nondiscriminatory forms which we filed in all states. This has put us in a position of compliance with more recent regulations in other states.

On cost comparisons, I do not believe that the NAIC model regulation really reflects anything directly suggested by Denenberg, but again, I feel that his involvement may have encouraged the industry to react a little faster than it might otherwise have done, and to work with, rather than to react to, the regulators.

MR. CASE: Many of us associate Denenberg's name with the Shoppers' Guides. At one point it appeared as though life insurance agents were going to be required to furnish cost information not just on the policy they were trying to sell but also on policies of some of their competitors. That seemed to most of us in the business to be a highly unusual, burdensome and unnecessary requirement. The model regulation that emerged does not involve that requirement.

MRS. BARTLETT: Consumer Reports does comparative studies of various life insurance policies and so do many trade publications. Given that the model regulation requires a series of six numbers to properly illustrate the cost of a policy, and the fact that it will be hard for a publication to illustrate all six numbers, we should be alert to problems which might emerge from published rankings. I fear that cost comparison indices may be shown improperly, thus harming both the consumer and industry.

MR. BARTLEY L. MUNSON: That is good and bad news where I come from. We are in the Fox River Valley of Wisconsin where the paper industry is big. It has got to be a boon to those companies. But in our situation, we not only have those six index numbers, but we have up to two term riders on a given basic policy, all of which are participating. We have to tool up now to produce a maximum of 18 index numbers which I highly doubt will be useful to anybody. It is disturbing. I am not opposed to index numbers, but there are many dilemmas it seems in this whole issue.

MR. LAWRENCE M. AGIN: It is interesting on impairments such as blindness that, considering accident and sickness insurance, many companies, including my own, did not issue to blind people. Now we are being asked to provide experience to support that when we have never issued it. My question relates to the laws that I have seen, particularly in Minnesota. The language in the law seems to be very general. It simply talks about actuarial statistical support for any kind of impairment or disability causing a rating on life or health insurance. The interpretation we received from the state insurance committees refine it to stabilized physical impairments. Do you have any feeling that there might be a trend towards broadening that one of these days?

MR. CASE: The interpretations of the Minnesota law to which you are referring are, I think, the result of heroic efforts on the part of the Minnesota companies and understanding people in the department to cope with a law which, in my mind, could have been, potentially, completely unworkable. The law does require one to base any rate differentials on data which "establish significant and substantial differences" in class rates. In an effort to cope with this, the companies seem to have hit upon the idea of making the whole thing

apply just to stabilized disabilities. This gets you off the hook on a number of very serious types of impairment on which there may not be a body of statistically significant data.

I hope that,rather than seeing a broadening of the Minnesota type situation to cover all types of impairment, we will instead see laws that do not require data of a certain kind. I think that is the only way out.

MR. WALKER: I second that. The Minnesota statute left room for a small opening to permit expansion beyond the purely statistical concept of justification. There is the possibility of medical consensus justifying a rating, so you are away from the purely actuarial aspects of this. Hopefully, we can start to take into account the fact that a lot of underwriting is done on a judgemental rather than statistical basis.

I have a question for Daphne. There are several states which now have in being cost disclosure regulations requiring the use of 4 percent interest. Does not that make it inevitable that you will have to set up your computer systems to provide either one?

MRS. BARTLETT: Yes, and that is going to be very expensive. I would hope that all companies are currently set up to handle a 4 percent interest rate. They are required to comply with the current regulations. We will have to design an entirely new system for which we will have to prepare in order to comply with the model regulation. I suppose we will continue with the old one in those states that do not use the new model regulation.

MR. MUNSON: Dan, are you aware of any move in the ALIA to work with those states that already have the 4 percent regulations to see if they might quickly change it or permit 5 percent nationally?

MR. CASE: Yes, indeed. Alerts have gone out to key people in the states to get the states over to 5 percent.

MRS. BARTLETT: Dan, you commented briefly on unisex premium rates. To date, most states where regulation is pending have been fairly careful, and surprisingly so, to allow rate differentials by sex if there is proper justification for the differentials. The form of justification that appears to be required, at least as currently suggested in California, is going to be rather burdensome and will create much paperwork. The kind of thing that you will send in with your filing to the insurance department might be a stack of paper that will involve not only assumptions, but possibly profit objectives. This creates another huge problem. Should this information be disclosed to the public? Or available to other companies?

Obviously, the problems involved in justifying different rates for females are very large. It would appear that unisex may be the answer. This is a leading question because I do not believe that. Would you like to explain why unisex is not the answer?

MR CASE: We feel that companies should not be prohibited from offering unisex for some coverages if that is how it comes out when all things are taken into account. We, of course, do not want to be compelled to use unisex rates when indications are that they would not be equitable. Now the question is, How do we argue successfully against being forced to use unisex rates?

MRS. BARTLETT: Is the life insurance industry opposed to unisex rates?

MR. CASE: Yes, unalterably opposed. Of course, our positions have been altered before by external forces, but in the resolution that was adopted two years ago by both associations (ALIA and HIAA), we reaffirmed the need for insurers to be permitted to classify insurance for rating purposes according to the expected risk of loss based upon relevant information, including mortality and morbidity experience by sex. We still feel that way.

MRS. BARTLETT: I think it is important for the industry to maintain the right to classify according to sex and to fairly discriminate by sex. Because if we do not, if we concede that point, some day, sometime down the road, maybe some senior citizen will come along and say, "You are unfairly discriminating against me because of my age," and we will end up with uniage. Then we are all out of work.

MR. BLACK: I think that is a very valid statement. In fact, we have already used it in some of our discussions in Canada with advocates of unisex tables, because many of the provinces have included age as a prohibited basis of discrimination in legislation. So when the advocates of unisex tables come along, we have used that argument and said, "Would you be in favor of uniage tables as well?" They say, "Oh, no, the differences are quite clear there." We reply, "The differences are clear when it comes to the sex as well."

MR. CASE: Some of the unisex advocates present the argument that if you use one type of risk classification, namely sex, to separate one class from another, then you must use other categories in addition. You cannot pick one category and use that alone. And so, to really follow their argument, we would be forced to use either no classification or an infinite number of categories. We clearly cannot use the infinite number, and so it seems to lead to a position of: If not sex, then also not age or anything else.

MRS. BARTLETT: Any actuary who is doing pricing today should make a very diligent effort to price females on a completely separate basis, whatever it might turn out to be; not a setback, because that is artificial. Obtain a set of assumptions, not just for mortality and morbidity, but also perhaps for persistency and expenses, because sooner or later I think you are going to be called upon to justify those differences. If you cannot, you will be throwing your company open to a lawsuit for unfair discrimination.

Also, it should be done consistently between lines of business. If you can justify a rate differential for females in life insurance, although it might not turn out that there is a comparable rate differential in pensions because of, say, expenses, or average size policy, nevertheless, you should go through the exercise to find out whether the differential exists.

MR. CASE: Chuck Walker has shown himself reluctant to speculate about the future in at least one area, but I wonder if we can put him on the spot in another area, and that is fair credit reporting. Chuck mentioned four major changes that have been sought by advocates of stricter controls on fair credit reporting, and they have failed in past attempts to broaden the Act. I wonder whether you foresee any possible success on the part of these advocates in the future in broadening the Act? What do you think the impact might be on our business?

MR. WALKER: As a matter of personal opinion, I think that this year's effort at amendment will fail. I am not aware of any interest in the subject at all in the House. So, as a political matter, I do not think it will go very far, even if it gets out of the Banking, Housing and Urban Affairs Committee. Even that is problematical.

One area where you can look for some successful amendment would be a more detailed information form and procedure for more clearly bringing to the attention of the insurance applicants just what an inspection report is. If it is limited to that, and given a reasonable set of legislators, we can work out something that would not impact us too badly.

The other direction they are thinking of is to get prior formal consent for acquisition or distribution of medical information. I would hope that we could hold the line on this one, at least as far as the Fair Credit Reporting Act is concerned, because it is not at all within the scope of the Act. It is branching into a totally different field and almost inevitably will involve regulating the underwriting process.

MRS. BARTLETT: We have seen a number of new laws floating around in the last year within the general context of consumerism. I would like to ask the audience how your companies react to this legislation.

As an example, I could mention the one in Puerto Rico that requires Spanish language forms to be available whenever English language forms are sold. Our company went through a great soul-searching process deciding, first, if we wanted to continue to write business in Puerto Rico. We decided, yes. We then went through further soul-searching, deciding which plans we would continue to offer in Puerto Rico so we would not have to translate everything into Spanish. We discovered to our disappointment that about every plan we had in our rate book was sold in about equal numbers in Puerto Rico, and we would be offending somebody if we dropped anything. We went through an extremely expensive exercise of translating all these forms into Spanish. We were just about ready to file when we received a notice from the ALIA saying that the deadline was extended.

We were good guys. We reacted to the law as originally scheduled. I am inclined now to advise my staff whenever a situation like this arises to cool it for a little while and wait for someone else to do something.

MR. WILLIAM C. BROWN: Specifically, on this Puerto Rican business, our operation was marginal, so we decided to withdraw both in the life insurance and employment securities where we had our appropriate dealership.

MR. GRUSON: At Metropolitan we did it reluctantly, but we are complying. We issue in Puerto Rico on a group conversion basis, so the problem is minor.

MR. WALKER: There is a more general problem of identifying legislation. I have been dismayed on two or three occasions to first learn of new legislation after its enactment, thereby having no opportunity to express any opinion as to the propriety of the legislation.

Watching the legislative services and bulletins is a job generally performed in the law department by newer lawyers who know the least about insurance company operations. They are the least qualified to recognize the operational

impact of a statute which does not directly say life insurance. They will surprise you in a quite justifiable oversight in following the legislative services. I do not have an answer for it, except to redouble your personal efforts to watch these things yourselves.

MR. CASE: We, in the trade associations, cannot do our job unless we know how a piece of proposed legislation is going to affect your companies. We cannot determine that unless the right people in your companies obtain the bills, discuss them,and give us their feelings about them.

With respect to the Puerto Rican situation, I think that what seems to have caused you some pain and grief, Daphne, I would have regarded as a wonderful chance to exercise some real actuarial judgement and ingenuity. Here is a case where you must consider the possibility that the requirement will be deferred, or even perhaps eliminated, because we are always working for things like just that.

MR. MUNSON: I would like to ask the audience for a show of hands related to the NAIC model cost comparison and disclosure regulation. How many of you have become reasonably familiar with that model regulation and specifically the Iowa law which is almost the model regulation verbatim? I would say about 10 percent of you. (About 120 in attendance.)

How many of you have some type of computerized ledger illustration that you produce, either on request or automatically,in some fashion? It looks like about 30 percent.

How many of you also have some type of illustration for business that is already in force, not proposed business, but your old rate books and business already on the books? Anybody besides my company? (One other company.)

This is a big unspoken dimension in the whole regulation which has disturbed me. I never really discussed it with the NAIC, although Dan Andersen and I have chatted about it once briefly. Years ago it disturbed me and a few others that the industry would readily turn out nice illustrations of a great variety for new business, but as soon as the consumer bought it, we suddenly forgot about that. We made no particular effort to tool up or offer information to him. I am not advocating a yearly basis like Joe Belth has proposed, but we should give the consumer periodic information upon request. At our office, we used to try to kill those requests, tactfully and politely, by explaining what a big expense and headache it was to produce those manually, and indeed it was.

Many years ago we went to a computerized system so that we now have very similar illustrations on in-force and new business. There are many good reasons to do so; they include conservation purposes and others that are in the best interest of the company, as well as the individual consumer.

I am frightened. I have not thought through yet how to tailor-make all of our in-force illustrations on our scores of different plans and different rate books to conform with what the NAIC model regulation is going to force us to do on new business. The NAIC model regulation does not address old business, but it seems to be pretty silly to give the buyer one form today, and if he comes back a month from now having bought the plan, asking for what amounts to an in-force illustration, to give him one of an entirely different format and look.

For those of you who did not raise your hand to the last question, I am envious. However, we ought to consider, as an industry, what we do for the people once they have bought the insurance, and treat them with equal vigor, care and concern. There is some implication that we do not, based on how we treat illustrations.

MRS. BARTLETT: There was a committee of the Canadian Intitute of Actuaries that kind of paralleled the Society of Actuaries' committee on cost comparisons. They prepared a report that I am not sure had very wide circulation, but it endorsed the Belth Company Retention Method for cost comparisons. I have not heard anything since, and I wonder if I could have an update on the status.

MR. BLACK: This report was circulated, at least to members of the Canadian Institute of Actuaries, and was discussed at our annual meeting last June. Since then it was considered by the Council. The Council felt at this stage that we should have a little more work on it. There should be some numerical illustrations. The committee is now at work developing some illustrations for it. The basic charge of the committee is to recommend whether the Institute should make a public statement on the matter and,if so, to recommend in what form that statement should be.

MR. JOHN E. BAILEY: One disturbing aspect of some of the recently proposed antidiscrimination regulations has been their retroactive application with respect to price. This retroactivity raises serious pricing, equity, and administrative questions. Fortunately, it will apparently not be too difficult to comply with the regulations that have been put in force to date.

A new California regulation provides that anyone denied coverage prior to the effective date of the regulation could petition the Commissioner for relief -- presumably in the form of issuance of the contract as applied for -- regardless of subsequent disablement. (One would not expect many of those currently able to obtain the standard coverage through the operation of other sections of the regulation to follow the petition procedure and pay back premiums.)

A recently adopted Arkansas regulation on sex discrimination applies to all contracts issued or renewed after the regulation takes effect. In this context, "renewed" apparently applies only to guaranteed renewable health insurance contracts and renewable group insurance contracts on a prospective basis.

The latest version of the proposed Illinois regulation on sex discrimination applies to all previously issued contracts which do not contain provisions for guaranteed rates at the time of any future rate changes. Presumably, this would have about the same applicability as the Arkansas regulation.

Fortunately, the NAIC model bill on sex discrimination does not have such a retroactive provision, except for existing group contracts which are amended after its effective date.

MR. WALKER: The NAIC model regulation, paragraph 4, says that the regulation will apply to contracts delivered or issued for delivery on and after the effective date of the regulation and to all existing group contracts which are amended on or after the effective date of regulation.

MR. CASE: All of this applies just to the availability of the coverage, not to the premium rates, unless Arkansas says something about premium rates.

MR. STEPHEN H. LEWIS: The Illinois proposed rule on sex discrimination has a retroactive feature regarding rate discrimination. It has been of tremendous concern in our company because we do not have the administrative capabilities to implement a rate change which would correct any discrimination with respect to rating between the sexes. Even one state with a rule like this could throw the industry into a mess in terms of the number of rate increases to be filed. If a company were unable to comply with the requirements of Illinois, they would be frozen out of increasing rates under individual business. I think it is a very big problem.

MR. JOHN C. MAYNARD: This whole subject has so many implications for actuaries that it is hard to know where to stop. I have one hope that, as time goes on, actuaries will not only react to questions in the consumer field, but they will be initiators.

Policy loan legislation provides one example on being active. In a sense, one category of insurance user who is not very often defined, and perhaps not as often thought of as you would like, is the person who just wants to have an insurance policy, keep it in force, and pay the least cost for that service. In other words, the long-term policyholder. In this sense, policy loan legislation, which sets an upper limit on the rate of interest, discriminates against the person who wants to have this insurance service at the lowest possible cost.

MR. MUNSON: I feel we all should go home and monitor things in our own shop, particularly on the state regulatory front. The trade associations need our input. I think we need each others. And the consumer needs all of us to be aware and vigilant of what is in the consumer's best interest. Obviously, that, in the long run, is in the best interest of our companies and our own individual jobs. It is not a subject that is typically actuarial and which can be quantified or studied mathematically. But it has, as I think we all recognize, many actuarial implications and ramifications. I hope that all of us watch this closely.