

**Transcription of the Public Hearing before the Management Committee of  
The Interstate Insurance Product Regulation Commission (IIPRC)  
September 21, 2008**

**Management Committee Members in Attendance:**

Commissioner Jane Cline, Chair, West Virginia  
Director Mary Jo Hudson, Vice Chair, Ohio  
Commissioner Glenn Wilson, Treasurer, Minnesota  
Commissioner Jim Long, North Carolina  
Commissioner Kim Holland, Oklahoma  
Commissioner Joel Ario, Pennsylvania  
Sara Waitt as a designated representative for Commissioner Mike Geeslin, Texas  
Commissioner Paulette Thabault, Vermont  
Don Beatty as a designated representative for Commissioner Al Gross, Virginia

**Commission Members Present:**

Margaret Witten as a designated representative for Commissioner John Oxendine, Georgia  
Shelly Santos, Hawaii  
Tom O'Meara as a designated representative for Commissioner Susan Voss, Iowa  
Commissioner Sandy Praeger, Kansas  
John Burkholder as a designated representative for Commissioner Sharon Clark, Kentucky  
Commissioner James Donelon, Louisiana  
Eric Cioppa as a designated representative for Superintendent Mila Kofman, Maine  
Joe Murphy as a designated representative for Commissioner Nonnie Burnes, Massachusetts  
Joan Moiles as a designated representative for Commissioner Ken Ross, Michigan  
Director Ann Frohman, Nebraska  
Beth Dwyer as a designated representative for Superintendent Joseph Torti, Rhode Island  
Commissioner Leslie Newman, Tennessee  
Beth Berendt as a designated representative for Commissioner Mike Kreidler, Washington  
Susan Ezalarab as a designated representative for Commissioner Sean Dilweg, Wisconsin  
Commissioner Ken Vines, Wyoming

**Representative of the Legislative Committee:**

Senator Delores Kelley, Maryland  
Representative Brian Kennedy, Rhode Island  
Susan Nolan, NCOIL

**Representatives of the Industry Advisory Committee:**

Dennis Herchel, Massachusetts Mutual Life Insurance Company  
Michael Lovendusky, American Council of Insurers  
Steve Buhr, AEGON  
Nancy Johnson, UNUM  
Gary Sanders, AHIA  
Michael Gerber, NAIFA  
Tom English, New York Life

**Representative of the Consumer Advisory Committee in attendance:**

Brendan Bridgeland, Center for Insurance Research  
Ryan Wilson, American Association of Retired Persons  
Ken Libertoff, Vermont Association for Mental Health

**Regulator Staff in attendance:**

Randy Rohrbaugh, Pennsylvania  
Brad Harker, Pennsylvania  
Chris Doane, Pennsylvania  
Michael Ridgeway, Oklahoma

**IIPRC Staff:**

Frances Arricale, Executive Director  
Sara Bamford, Operations Manager  
Karyn Onyeneho, Administrative Assistant  
Charles Rapacciuolo, Development Consultant  
David Morris, Product Review Consultant  
Alice Fontaine, Actuarial Consultant

**NAIC Support Staff:**

Becky McElduff, Staff Attorney  
Kay Noonan, General Council

**\*Please note that due to technical difficulties, the audio recording of the hearing was of poor quality and the verbatim transcription may not be complete in certain sections as a result.**

Commissioner Jane Cline: Good morning, if I can have everybody's attention – we'd like to go ahead and get started. And what I would first like to do is ask Fran to take the Roll.

Frances Arricale, IIPRC Executive Director: This hearing is taking place before the Management Committee. This is the roll call of the Management Committee. (The roll was called.) There is a quorum Madam Chair.

Commissioner Cline: Thank you. As Fran mentioned, this morning is the Public Hearing on the amendments to the Establishment of Conditions and Procedures for Public Inspection and Copying of Information and Official Records of the Interstate Insurance Product Regulation Commission; otherwise, know as the Public Access Rule. As a brief reminder, the Public Access Rule was originally adopted in 2006 provided that it would be reviewed again. The Rulemaking Committee with TX offered a proposed amendment that is currently before us today. The amendment to the Public Access Rule was exposed for the 60-day public comment period after the May 30<sup>th</sup>, 2008 Management Committee meeting in San Francisco. During this time, we have received written comments from Industry Advisory Committee members, Nationwide, New York Life, and the Center for Economic Justice; Vermont also presented comments to the Management Committee. The Public Hearing was held on August 21<sup>st</sup>, 2008; to receive comments on Vermont's comments.

Today's hearing was requested by the Industry Advisory Committee. The hearing will allow all an opportunity to provide their comments on the amendments to the Public Access Rule. We did receive numerous requests from third parties who would like to provide comments. In an effort to afford everyone a chance to speak, we would like to ask that you keep your comments to no more than 10 minutes.

First, I would like to ask if there are any Members of the Management Committee that would like to make any comments? If not, are there Members of the Commission that would like to make comments? I will then turn to our Legislative Committee and see if there are Members of the Legislative Committee that would like to make comments.

Senator Delores Kelly, Maryland: Yes, Madam Chair. The Legislative Committee met over this problematic Rule and we have submitted our written comments; but what we have in general are the following concerns. We don't see how any consumer can be harmed by a product that is never brought to market; this is just one concern. Secondly, we're concerned about the precedent of —so soon after having established existing rules – changing it again. Even going through this process so soon after. We're at a toddler stage and we'd like to get to adolescence and in good health. And we think it might suggest to the outside world some instability which we don't believe exist. We don't want the appearance of that. Finally, we hope to avoid any disincentive to have the industry submit filings with us. As opposed to having them shop their filings around to the states and avoiding us because that would undermine our very mission. Those are our concerns.

Commissioner Cline: Thank you Senator Kelly. Representative Kennedy.

Representative Brian Patrick Kennedy, Rhode Island: Good morning and thank you. Just to add to what Senator Kelly already said, having listened in on several of the conference calls and also participating in them as well; one of the things that came through loud and clear is the fact that – regarding filings, they are presently shopping around deciding whether just to file within certain states or whether to file directly with the Compact. I would hate to think that we are going to disincentivize them from moving forward with filing with the Compact. Because of the fact that potentially, we run into an issue of public access records because of whatever reason the product might be withdrawn at some point in time and they don't want to file that particular or have that particular filing made known to everyone once it has been withdrawn. There is nothing that directly benefits consumers once the filing has been pulled out of the system. If our goal is to maximize the potential filings with this—and therefore not only the filings but the dollars that come with the filings—I would say to look very closely at this particular issue so that we can actually see the number of filings grow. Thank you.

Commissioner Cline: Thank you Representative Kennedy. I don't see any other representatives of the Legislative Committee. Susan Nolan, do you want to make any comments on the part of NCOIL?

Susan Nolan, Executive Director of NCOIL: No comments.

Commissioner Cline: Next, I would like to hear from those who have actually requested – those who have requested to make comments in the following order: First we have Brendan Bridgeland from the Center for Insurance Research. Is Brendan here yet?

We're going to go in the order that people asked to speak and then we will allow time for others that perhaps didn't get a notice to us – so after Brian, I mean after Brendan, we have Ryan Wilson with AARP. Is Ryan here?

And we can adjust this as people are able to make it. Next, was Michael Lovendusky with ACLI.

Michael Lovendusky, ACLI: Good morning Madam Chairman. Thank you. Thank all of the Members of the Commission for the time that you have invested in conducting this matter. This is the most recent conversation of many discussions that many of you had among yourselves. We would strongly encourage the continuation of the current Rule in place – the current Rule perceived a balance between the public access of approved filings. We also need to protect the intellectual property of the carriers' filings that are pending before regulators for their own evaluation. The purpose of the Industry Advisory Committee is to recommend to the Compact what we think will be best for the progress of the Compact, something which we very much want to accomplish. And it is our opinion that the best rule to encourage that is the rule that is in place, and we are very concerned that to allow access to pending filings will discourage carriers from filing. Thank you for hearing our comments and we look forward to hearing additional commentary.

Commissioner Cline: Thank you. Next we have Steve Buhr from AEGON and I believe he's on the phone.

Steve Buhr, AEGON: Thank you very much. I'd just like to – to reiterate comments that I already made. And those would be that regardless of the doubt that's been expressed in some areas, our company will not use the Compact to the degree that we have been and to the degree that we would like to, if the amendments that have been proposed go forward. And I'll leave it at that.

Commissioner Cline: Thank you. Next we have Dennis Herschel from Mass Mutual.

Dennis Herschel, MassMutual: Thank you. Massachusetts Mutual is a company that has filed with the Compact. *(-Inaudible recording-)* Thank you.

Commissioner Cline: Thank you. Tom English with New York Life.

Tom English, New York Life: Thank you Madam Chairman. We have previously filed written comments on this issue. New York Life was first to use the Compact and receive approval. The current Rule strikes the appropriate balance and then it indicates it gives access at the correct time. We believe that the proposed change [is] inappropriate for a few reasons. *(-Inaudible recording-)*

Commissioner Cline: Thank you. Now I'd like to turn to Nancy Johnson from UNUM.

Nancy Johnson, UNUM: We want the Compact to be the model for speed-to-market for our insurance products. We are largely a group product filer. There are largely, for the most part, there are no standards for the group products. We have, however, filed a number of individual life filings which have been approved. And we submitted comments along with the other members of the Industry Advisory Committee. We'd also like to add – to add that we see this change as a barrier to the success of the Compact. We believe, along with other carriers, that one decision has already been adopted which is detrimental to the depths of the Compact and that is having a limited "Mix and Match". *(-Inaudible recording-)*

Commissioner Cline. Thank you. Next we have Randi Reichel with AHIP.

Randi Reichel, AHIP: Good morning Madam Chair. AHIP would echo comments that have been made today.

Commissioner Cline: Thank you. Next we have Birny Birnbaum for the Center for Economic Justice.

Birny Birnbaum, Center for Economic Justice: I noticed that Brendan and Ryan are here. Would you like them to go before me?

Commissioner Cline: We were going go ahead and go in order and then circle back around and then pick up Brendan and Ryan.

Mr. Birnbaum: Thanks. Birny Birnbaum with the Center for Economic Justice. You've received some comments that we submitted along with Consumer Federation of America and the Center for Insurance Research. Where we went through the various industry arguments against this. In our view pretty much demolished them. But let me take a step back and ask you to think about the financial crisis that we're in the midst of that's going on with AIG – the bailout of Wall Street, and there are many lessons for regulators of financial institutions from this crisis. One obviously is the need for an oversight – now there is the limit of market forces that consumers *(-Inaudible recording-)* but the third lesson is the need for greater transparency. Meltdown is attributable in large parts in the lack of transparency regarding certain

financial transactions and financial instruments. The lesson is the greater transparency means greater accountability. That's yet another reason why we're asking you to make filings public upon submission. The industry and the legislative comments seem to boil down to three. You've already made a decision – so don't change it after a year or two. Public Access will force insurers to give away their innovation to competitors. And do as we tell you or we will abandon the Commission. Which means that the Commission will fail, and state regulators *(-Inaudible recording-)* looking at Congress versus the unspoken sentiment. So let me start with the last part – which is you do this we won't play. Where does that stop? Suppose they don't like product standard or they don't like another rule and they tell you change this or we won't use the Commission—Is that a standard that you want to use to determine whether to regulate these folks properly or not. The fact of the matter is in our view is what you want to do is you want to set up a fair process that has tremendous accountability to the public. You're an effective and national regulator—so the standards that you set should be great or greater than any individual state. You're doing more than any other state, so you need greater accountability. Now, let's think about this—that we will abandon the Compact. Let's say that—let's say that they do that and they go to Congress and they say look the state regulators couldn't get it together – the same people were using the AIG crisis argue that federal oversight of insurance is necessary because state regulators were the reason that AIG has come into problems. I don't understand why you count on the word that these folks say, as they are supporters of the Compact at the same time doing everything they can to undermine state based regulation. So, I don't buy number three.

Number one, you've already made a decision so don't change it. Please. When this was adopted it was very contentious. At the time it was adopted there was a conscious decision and specific statements that it would be reviewed on an ongoing basis. Look at the issue. Nobody is without notice on this issue. Nobody. And the idea that you would change the Compact or change a product standard or change a rule in order to improve it—does not indicate instability. When the insurers came to you and said we need to change the rules to allow “Mix and Match,” does that indicate instability or was that simply an improvement that was needed to make the Compact operate more effectively and more efficiently.

Now let's get to the point about forcing insurers to give away their innovation. Their argument is that if you stay – if the filings are public upon submission, then they're giving away their innovation to competitors. But, how does that work now? Well, what they've told you is that we go to the state where it's not public and we file and get approval there. And then once it's approved, then we go to the other states. Now, let's think about that. Let's say they go to Wyoming and no aspersions against Wyoming. But let's say they go to Wyoming and they get some quite innovative filing approved. Okay, it's then public. Everybody knows about it. They then take the filing and they go to Florida, or Texas, or California, or New York. Do those states rubber stamp it? No. All the competitors know what that company is doing when they're – at or before the time they're filing with the other state, because once it's approved in Wyoming, they now know about it. This idea that some how there's all this innovation that's being kept secret by going state by state is clearly not true. It just can't be. Now when I was regulator in Texas, I knew this was the case. We'd get filings that'd say that this has been approved in seven other states or twenty seven other states, we still would review the filing according to our state law to make sure that it met the law. And there are many times when we said no. It doesn't make sense. Or there's something wrong with the filing regardless what other states have done. But the fact of the matter is that before it was filed in Texas, companies—other competitors knew about it. So, what we're talking about here is perhaps thirty days to sixty days of time. Now if it's true, that it takes a year or more for companies to develop this, the pricing and everything associated with an innovative product—then 30 or 60 days is not going to eliminate that competitive advantage. If in fact it only takes 30 or 60 days to copy somebody's filing, then they don't have the competitive advantage that they claim because they only have maybe 30 thirty days in another state. In the state-based approach. So the bottom line here is this claim about innovative filings is a sham. Now with great respect for the regulators from Vermont who have tried to craft a so called middle ground, it's based on this idea of innovative filings. And when you take away the concept or basically when you say that the argument for the innovative filings doesn't make any sense, then there's no rationale for the Vermont approach. Which is why we don't support it.

Now, the last couple of points I want to make are the idea that if you discourage insurers from using it, then there won't be dollars coming into the Compact; now, think about that. Let's say you're a state regulator and you were going to pass the law to protect consumers and the industry said well we don't like this—we won't use your state regulatory apparatus; and therefore, there won't be enough money coming in. That doesn't make any sense. This is a regulator agency, a public regulator agency. You need the money that's necessary to operate a regulatory agency to accomplish your goals. The insurers don't want to use it, they have an alternative. They can use the state based system, and that's no disparagement to you. Recall that there's an effort now to reinvent the reinsurance regulatory regime. And many of the trades are saying there's no need for change—there's no need to change the collateral requirements for reinsurers because there's one already in place. Foreign reinsurers have a choice, they can use the state-based system and get licensed in every state, or they can post 100 percent collateral. But somehow when it comes to the Compact and where they have a choice, they say no—we won't use this; and that's bad news to the Compact. I just think that this is an example of why we don't want the optional federal charter. An example of the competition to the bottom. It's an example of regulator triage. Playing one regulator off another. The Compact should post the highest possible consumer standards.

And I'm going to finish with answering the question that the legislators asked; which was they don't see how consumers can be harmed by products by not being able to see products that were not brought to market. The problem with that question—is that—that's not the purpose. The purpose of being able to see products that are filed upon filing is to give consumers the ability to comment on those filings. To give insight to regulators about whether consumers think the products meet the product standards. Particularly on those innovative filings where there's going to be a stretch of where the product meets the product standards. So, if you don't have that, then consumers don't have that ability. If consumers do have the ability, and they provide some kind of insight that helps regulators – that helps the reviewer understand the filing. And maybe because of those comments, the filing isn't approved and that filing in fact doesn't come to market. But it's not the consumers want to see filings that haven't come to market. They want the ability to comment. We want the ability to comment on filings so that if they're inappropriate, we can tell the reviewer that it shouldn't come to market. So seeing filings that don't come to market is a by-product of the basic of public accountability of making filings available to the public.

Now, I want to thank you. I know this is a very contentious issue for you. I know this a difficult vote. But I want to ask you to dig deep—think about all the stuff that's been going on in the financial crisis. And say this is really where we need to demonstrate that state based regulation is going to have the highest possible standards for public accountability and transparency and we're going to show the Feds who are responsible for the meltdown in the financial markets—how it should be done. Thank you.

Commissioner Cline: Thank you. Now I'd like to turn to Michael Fager with Genworth.

Michael Fager, Genworth: Good morning, I apologize for my voice. I had the longest virus in history I believe for about six weeks and it's continuing. I'd like to say first of all, I want to commend Ana Smith-Daley for opening up the Long Term Care version of the Interstate Compact where we're continuing *(-Inaudible recording-)* roles there. I work for the Long Term Care division of Genworth and am to see these products continue because we would very much like to see the Interstate Compact's speed. Just a couple of comments: I would like to remind everyone, and I'm sure that you regulators are aware of this fact, that very seldom are the filing processes a 60 day process; generally this process is much longer than that. I just want to say that we do want the Compact to succeed but we will be very reticent to continue to be part of this process if you let the current proposal pass. I'm not going to bore you with the *(-Inaudible recording-)*

Mr. Lovendusky: Madam Chairwoman, this is Michael Lovendusky. Will there be an opportunity to respond for a moment to the gentleman from the Center of Economic Justice?

Commissioner Cline: First what we would like to do is go through the list of people who requested to speak. And then revisit our time and see where we are. The next requester was Patrick Greeter also with Genworth. He's not here. Elaine Leyton with John Hancock.

Elaine Leyton, John Hancock: Thank you Madam Chair. My name is Elaine Leyton and I work for John Hancock. John Hancock offers a broad range of insurance products, including life insurance, individual and group annuities, long term care and other products and services. We, at John Hancock, supported the Compact from the very beginning. However, as mentioned at the last meeting, we opposed proposed changes to the Public Access Rule. The filing approval process is a regulator activity. We do not think there is anything to be gained by your residents or your consumers if the Commission allows public access on filings of products that are not yet available in the market place or may never be for that matter. We have and continue to work closely with you, the regulators, in an open process in developing the product standards which address consumer concerns. Finally, let me reiterate: If the Commission adopts proposed changes to allow public to access the filings that are either—that are either pending approval, disapproved, or withdrawn -- we will certainly reconsider our support for filings with the Compact. Thank you for the opportunity to express our concerns.

Commissioner Cline: Thank you. I will now like to turn to Sue Eckler-Kerns with Prudential.

Sue Eckler-Kerns: Prudential: Thank you Commissioner. The advantage of going last of course, although there is a few who didn't get to speak, is that I can kind of get to say "well, you know, what all have they said". So I'll keep my comments brief. Prudential, as you know, has been a long supporter of all speed-to-market activities, although it was not successful. We were the first CARFRA filer. The CARFRA filing was successful. That worked well but we have long supported speed to market. We support the Interstate Compact. We really want to see it succeed. We are right there on the verge of doing our first filing—Maureen Adolf who was not able to be here this morning, has been speaking with Fran about getting Prudential plugged into this process. But as has been expressed in the letter from Maureen at the June meeting, I guess, we do have concerns with the Public Access proposal. We don't see any additional consumer protection is achieved by exposing filings during the comment period. We also believe that the amendments create an administrative nightmare for the Compact to have to deal with all of these comments during the review period. So we, for all of the reasons that folks have said previously, do not favor change in the rule this time; and with that I give back my time to those who want to rebut some of the earlier comments.

Commissioner Cline: Thank you. I see that Brendan has joined us and so I'd like to turn back to Brendan Bridgeland with the Insurance – the Center for Insurance Research. Thank you.

Brendan Bridgeland, Center for Insurance Research: Thank you. I'll be brief about the comments made my colleague Mr. Birnbaum. *(-Inaudible recording-)* Since the inception of the IIPRC, and even during the creation of the Model Compact legislation, consumer advocates have stressed the importance of transparency at the Commission. Adequate public record standards are absolutely essential to this transparency. The initial failure of the Commission to provide public access to product filings was deeply disappointing to myself and some other consumer advocates. Moreover, without complete transparency of the Commission's operation, states will be reluctant to transfer portion of their sovereign authority to the Commission. In fact, it's come up in hearings where states are—more states are considering more Compact legislation, and that several prominent consumer advocate organizations testified against the adoption of the Compact in New York state; and particularly because they say that the non-public nature of the product filings. Looking back at the industry opposition to this is just early in the year—the Industry Advisory Committee submitted the following comment, which is—let me quote it here: "Since regulators often complain that most consumers can barely comprehend the insurance products that they buy, what benefit is there to consumer to access filing materials? The current operating procedures have been in effect for about a year. Can anyone document any harm that has fallen on consumers during this period in time?" And in my view, the IAC has asked entirely the wrong question. Consumers in the

marketplace always benefit from increased transparency and disclosure. Insurance regulators, insurance offices often speak highly of the benefit of the competition, but the cornerstone of the competition is access to information. I also noticed the assertion in there that consumers can barely comprehend their insurance products they buy—which is a slight to the intelligence of consumer. This Commission is not here to determine what insurance commissioners are clever or not, but to understand what terms are made available to them. The Commissioners have access to information and be able to figure it out for their own. And I do believe that there is a need to have access to the filings. As Birny already mentioned one reason. But I also believe it's important because how else will consumers and policymakers be able to monitor the Commission and see how it is enforcing standards. How can consumer intermediaries compare the Commission with the activities of non-Compacting states to identify potential problematic filings that are approved in non-Compacting states that have been rejected by the IIPRC. To encourage my state to join, the IIPRC must be able to show what the IIPRC it is that they're actually doing – what it's accepting, what it's rejecting. In other words what incentive would there be for non-Compacting states to join if they don't see that it's going to be any improvement over its current procedures going to the Compact. I just— by way of example, an insurance group might want to look at disapproved filings and see what's been disapproved by the Compact yet being sold in non-Compacting states which would indeed show that the Commission is establishing standards and it would benefit for a particular state to move to the Commission. And you need transparency to make that kind of judgment and that kind of analysis. I was going to refer briefly to the survey that was sent out by the Commission staff—regarding the number of states that permit access to filings on submission. Showed that nearly half, 44 percent, of the states who responded did allow access to submissions. Now there are many differences on the minor points, but given that nearly half of the states permitted access upon filings, that's a pretty good standards to go by. As I said, please remember, the goal of the Commission was to develop strong national standards. That's what consumer groups were promised during the early drafting of the Compact legislation.

And finally, just the last comment is that again, not all decisions are set in stone, the Compact has not been in operation that long. Everybody is understood that rules were going to change; and you know the “Mix and Match” will change. That of course, at the request of the industry after it was initially developed so the same thing can be done here with the Public Access Rule. And finally, it's just the— there seems to be some confusion especially looking at the cost analysis about the nature of what comments on the public process might be, and the idea was never to incorporate or force an examiner to wait and then examine and force them to take any into consideration—any public comments made. It's simply to allow—members of the public access to review the filings and offer comments; they could send in the letter and then the examiner, could if they decided to, take into consideration but it was never a requirement. And you know, as I said I agree with my colleague Birny; and I support the amendment but not the Vermont comments. Thank you.

Commissioner Cline: Thank you Brendan. Now I'd like to turn to Ryan Wilson with AARP.

Ryan Wilson, AARP: Thank you Madam Chair and Members of the Commission. I'm just going to keep my comments very brief. AARP supports the compromise that Vermont has proposed and there are obviously strong protections. Thank you.

Commissioner Cline: Thank you. And I understand that another member of our Consumer Advisory Committee, Ken Libertoff, would also like to make comment.

Ken Libertoff, Mental Health Association of Vermont: Ken Libertoff from the Mental Health Association of Vermont. I'd be very foolish of course to stand in opposition to this. I have to work with regulators back home in Vermont who drafted this change. It is obvious that we support this proposal. I think in the end, we are setting a standard for what the Commission is going to stand for, and it is partly at stake. I think that transparency and disclosure are important. Thank you.

Commissioner Cline: Thank you. Are there any other representatives of the public that would like to provide comments.

Commissioner Cline: Thank you. Is there anyone else in the audience that would like to provide comment? If not, I would like to turn back to members of the Management Committee; if there are Members of the Management Committee who would like to comment?

Commissioner Joel Ario, Pennsylvania: Pennsylvania will vote for the change today. But I do understand that most of my colleagues are not yet supportive of that, and I think that's a fair vision at this point, because I do think there are good competing arguments on this and that we ought to move with delivered speed on the issue rather than not necessarily moving quickly on the issue. But I'll tell you two reasons why I'm persuaded that the right way to move on this is towards disclosure and transparency. First, is that's where the states are -- look at the survey and look at what's happened in my state and a number of states that have contacted us about opening up the filing process. So it's clear to me where the direction in membership of your organization is, is where the future lies. And I think the events of last week are only going to force the importance of transparency. And then the second reason is general terms—I argued for the Compact way back to 2003 when most people were saying that it's good for the industry but maybe not good for consumers. I argued that it would be good for consumers too because when push came to shove, I thought most of the time provisions in the Compact would be made on a high common denominator based for the consumer not on a basis that we're supporting the more—the less consumer warranted position and I believe the consumer oriented position is transparency. So I do believe the Compact will eventually enter on this. I think it's proven that the Compact and most of its standards have gone to the high common denominator on most of those issues and I hope some day it will on this one. But again I respect the fact that a number of my colleagues are not ready to support this yet today.

Commissioner Cline: Thank you. Vermont Commissioner.

Commissioner Paulette Thabault, Vermont: Thank you. I also understand that there probably will be a number of commissioners who vote against this proposal, and I do think that it is a fair compromise and does address the concerns of both the industry and states who have concerns about how this might interact with their own Public Access Rule. However I would like to—we've heard a lot this morning from a variety of the industry representatives about how this is going to interfere with their ability or their willingness to go ahead and file with the Compact. So I'd like to hear from the industry the alternative commitment that, if the rule—if the amendment doesn't pass and the rule stays the same; I'd like to hear the commitment from the industry which I didn't hear today; that you actually will start your filings. I think that we're behind in what we had anticipated at this point. You must have a number of filings that are not even an issue with regards to the public access piece of it because they're already public; they're not innovative products. We're not seeing the filings at the rate we've expected. So I want to hear the commitment from the industry at this point.

Commissioner Cline: Thank you. First I'd like to—what I would like to do is allow Members of the Management Committee and the Commission, and then we'll go back into the order that we're originally—our original order. So are there other Members of the Management Committee that would like to comment? Commissioner Long.

Commissioner Jim Long, North Carolina: Thank you Madam Chair. I just want to point out that the Compact has trade secret status. Regarding public comment on filings, I'll be honest with you, the state of North Carolina allows for public comment on filings.

Commissioner Cline: Thank you. Commissioner Holland.

Commissioner Kim Holland, Oklahoma: This will end up being a follow up with Commissioner Long's comments. I was also checking with us—we also allow—our filings are public at the time that filings are

submitted to the office. We accept comments about any filing that was publicized. At the same time, I'm very sensitive to the fact that as regulators, we have an obligation to walk that fine balance between the industry and speed-to-market, and rightfully so. And our consumers' rights to have a good product and then also balanced with our need and obligation for the need of transparency. I guess what I'm struggling with in terms of—to stand back a little bit, and recognize that technology has changed the way that we do business. Filings are transmitted faster than they have ever been before; and thus is available faster than it ever has been before. And yet often times we're working under regulation that does not contemplate the speed by which we can get information out there. And I do think that it causes an issue that we do have to reconsider how information and what information is in the best interest of everyone. And I would say that just information and the volume of information out that is available to the public now is as—can be as disruptive and confusing as not enough information. So once again we have to work to provide that balance. I'm just wondering and I would really appreciate hearing from our regulatory community that has—does provide public access to information or to filings if they have received comments from the public that has caused them to change or deny a filing.

Sara Waitt, on behalf of Commissioner Mike Geeslin from Texas, made comments. *(-Inaudible recording-)*

Beth Dwyer, Rhode Island: Rhode Island has public access for filings. My understanding is that we have received public comment.

*(-Additional commentary but inaudible recording -)*

Commissioner Ario: This is Oregon's and Pennsylvania's experience, but I have to say on this issue that I see it somewhat differently than other folks do. I don't think were going to get a lot of consumers we haven't gotten it at the Compact level; we don't get it in the states. We do get the competitors closely watching each other closer. And I think this is part of the competitive market place. And so this is less a move to create a whole bunch of new people doing this and so the parade of horrors. I don't think they're going to happen but I do think competitors will pay more close attention and I think that it enhances competition. It's hard for me to understand the argument that holding more things secret from each other is the way to enhance competition; it's a way to restrict competition. And I think, in fact, in these arguments, that we are basically scared of our competitors more than we are of the industry.

Commissioner Cline: Beth Berendt from Washington, your comments please.

Beth Berendt, Washington: I can think of one instance where we actually dealt with a contract. The plaintiff's attorney wrote in and provided clarifying information in a pending filing that was very helpful and in the end caused the company and the plaintiff to reach a compromise. In general, we receive multiple requests for public documents; and in fact our filings are available upon submission and we do not receive comments from consumer associations. If we had received comments, our first and foremost priority is to get the filing approved, but we don't get bogged down in responding and arguing.

Commissioner Cline: Virginia

Don Beatty, Virginia: Thank you. I think there's a difference between the individual states and the Interstate Compact because here we have a centralized spot. And so I would expect that if the filings were open, we would receive public comments unlike the individual states. Also, I previously experienced that in those instances where there are public comments received. For example, in Virginia we get public comments every year on annual worker's compensation. We also got public comments on property and casualty. Brendan can tell you that property and casualty filings used to have a lot of public comments and they may still have. When you have centralization, you're going to draw more public

comment than if you just have individual regulation. Also it's—I just think it's more likely that we're going to get public comments than the states. Thank you.

Commissioner Cline: Thank you. Are there any other comments? West Virginia has open access too and I can tell you that we haven't had requests from consumers since the opening of our worker's comp market. We have had requests from other companies to look at other companies filings, but it has not been requests on the part of the consumers. Are there any other comments from Members of the Management Committee? Any other Members of the Commission? I would like to recognize Commissioner Donelon with Louisiana who is here with us. We welcome Louisiana as our newest Member to the Compact. If there are no other members of the Commission who would like to speak I would now to turn back to our Legislative Committee. Senator Kelly, would you like to comment?

Senator Kelly: Yes, just in response to sort of what we've heard, I think our Consumer Committee—Advisory Committee members said, one of them, that we don't want—we won't benefit from going to Optional Federal Charter. I think that if you—that we've heard some scare tactics in here today. That we're in a terrible financial market and maybe there should be more transparency. I think it's worth noting that what has happened [with the financial market] has been with multi-national corporations. But the Feds should have been regulating the market given the state of products. No state regulator has been implicated where this is of concern. We don't do short sales and we don't do credit defaults. We don't do any of that stuff. We're doing a good job with Product Standards. If we were to take away transparency when you really are considering standards—I think that this is the place where our strength comes. If the states—when you do the standards, you determine at that point what is necessary with how the structure ought to be for a product of a different—of a different type so that consumers – everybody has a fair share if the product does—come to market. I would say that the financial market is likely to end up inadvertently with that Optional Federal Charter; if our friends in Congress go crazy right now like they appear to be. I understand what they did with AIG. But what they're doing this weekend they might just decide—we need a one 1-800 number and while we're at it, all consumers can call the number to address their concerns—that all market conduct will be taken over by us and that's transparency. We don't know how it's going to be defined. I think we ought to continue on a steady course as this Compact has. And when I hear that steps for one maybe is—this is not a consumer issue since the product is never under the circumstances that we're considering on the market. This is an industry battle and I think that if they're all satisfied they'll want to fight each other about their trade secrets and unique products, then I don't think we ought to do anything to disincentivize from helping us to get products to market. And making this Compact successful. Thank you.

Commissioner Cline: Thank you Senator. And I think you made a very strong point. In that our process is very open and in the adoption of our product standards is a very open process. Representative Kennedy did you have any further comments? – [No comments from Rep. Kennedy] Now I'd like to turn back to the industry and I believe Michael Lovendusky would like to provide comment.

Mr. Lovendusky: Madam Chairwoman, thank you for the recognition and thank you also for allowing me to have a few more moments. I'd say that every single person in this room has an opinion as the gentleman from the Center of Economic Justice noted. Many of us hold his opinions of note to be considerable even those who find ourselves disagreeing with him time to time. We have a legitimate respect for his opinions and we look forward to the direction of those opinions and the way that he colorfully jumps into larger perspectives which certainly at the time we are all struggling with a better comprehension on our industry. But it is intolerable for me to sit here and have him allege that I and my fellow colleagues in the Industry Advisory group are engaged in a sham on this Interstate Compact or upon any of our relationships with the state regulators. I will ensure you that we are not engaged in any sham and we are very diligently working with our respective responsibilities. Several of you have already expressed today, and I've heard us express in the past, that our primary concern is to represent a “relaxed public access” that would in fact invite our competitors or carriers to not only view the intellectual property of pending applications but to gain dependency of this very application and to gain more time to

develop their own success of those products and that it remains our primary concern. But we have to admit that we are scratching—we find ourselves scratching our heads as to why the consumer representatives feel so strongly with regard to this particular proposal to amend the public access rule. And for example, the Center for Economic Justice itself has told us repeatedly that it has insufficient resources to become a member of the consumer representative panel and participate in an engaged manner in the development of the standards; which we have celebrated the approval of hundreds of standards most recently. They don't have resources to participate in the development of the standards and yet somewhere they apparently have found resources—or will find resources and review a particular carrier filings that will be filed. I don't understand that. Our chief concern is the extension of the public access rule. And I again reassure you—going back to the arguments that have been discussed over the last few months—the products that are pending, the products that have come to you as complicated products are complicated financial products. They take a considerable amount of time to develop because every carrier has to ascertain if in fact there is a demographic need or justification for these products; they are based on actuarial evaluations; they are based on target demographic mixes and dates for the carriers; they are complicated things that determine whether the companies are going to invest in their complicated development; once they're developed they have to become programmed into a companies systems; make sure that they will be available for the company's producers. It takes months perhaps years from the inception of an idea for a new product at the time that it's finally approved. That is why the idea of allowing the competitors to not have access to this information is at the root of all this effort. It's inhibiting to a carrier on deciding to file in one place or electronically the competitors could come and discover the tendency of their filing. So this is the primary concern and we are—we believe that the current rule has, as I mentioned, the proper balance. We don't know ultimately if you decide to expand the rule what the effects will be on the carriers in general; whether it will lessen their apprehensions; whether this will be okay or if in fact it frustrates the success of Compact. The ACLI members or any individual company doesn't know on its own individual company how it would use the Compact. I think I will stop now, I'm tempted to go on but I think you've heard most of the argument.

Commissioner Cline: What I would like to do first is allow those companies who wanted to respond to Commission Thabault's questions, and then Miriam.

Commissioner Ario: Can I just ask one question? Thank you. I do want to stick one thing in which I thought Senator Kelly hit it right on the nose when she said that in terms of public transparency and public access—the far more important issue is the standard process because that's what applies to every filing that comes in. And if you have to choose between the two; having the standards process open and then the application of the standard not open that clearly is the more important issue. So I just want to say that we shouldn't bounce on the issue because I think that this is a very important part of this. The question I had thought for Michael, still thinking that we want to move as far as we can towards transparency I think you eloquently laid it out with a lot of passion that you always have on these issues; but the case for—you know, basically an intellectual property that we're protecting. Companies have to put in some time in developing the competitive things to give people some advantage or some sort of time to encourage the right investment and so forth. Part of that I don't understand the development takes a long time - months, years even - but then at the point at which you decide to file you're very, very close to it being public. You could submit a straight forward filing, it could be approved in a matter of days. So in the overall arch of things, in terms of protecting that intellectual property, I understand that if people were able to discover early on in the process what companies were up to that would be a huge deterrent to developing the right product—but to say today I'm going to put this product in the market; I understand that literally tomorrow, if the Compact is doing its job, it might be approved. They're going to do all the things that you're worried about as soon as the file becomes public anyway.

Mr. Fager: Joel, might I respond to that? The issue that generally it's not. When it's an innovative product, because of the nature of innovation, it is not a 60 day process. That's my concern about what Birny said. Generally it's not, it can be very easily a four to six month process, and that's the concern I have. And I can tell you in states right now, very often it is a six month process. That's the issue here.

I'd like to speak for Genworth about the market. Do we want to take part in this? Very much so, frankly what we're interested in are if the long term care standards ready. When they're ready, we're going to be ready, but we're waiting for that.

Commissioner Cline: Commissioner Holland?

Commissioner Holland: *(-Inaudible recording-)*. The volume of information to the public that is already out, may cause confusion. There should be a balance.

Ms. Arricale: Under our rule, we have a 60 day turn around time. So we do expect that we will continue to have this speed to market process. There are opportunities in the Rule for extensions if their necessary, but of course this is a speed to market initiative, and we're aiming to do this.

Commissioner Cline: I do want to go back to the companies that want to address Commissioner's Thabault's question.

Mr. Buhr: If I may Commissioner, this is Steve Buhr with AEGON. I guess—first of all we are a company that has already been using the Compact for some of our Life Insurance products. We envision beginning to use the Compact for annuity products in the very near future when those are—that's when the product standards are fully developed and approved. But to be honest, the chill exist from being uncertain as to whether this particular rule will change again—if you vote now to leave the rule as it is, is it going to change again in three months, six months, in another year? I heard comments today that even in the case that there may be interest in seeing the rule reconsidered again in the near future. That sort of uncertainty is going to continue to inhibit our decisions to use the Compact to a greater degree than what we have already. That's how I would respond. We are using it, we hope to use it more but we're being very cautious right now.

Commissioner Cline: Thank you. Sue?

Ms. Eckler-Kerns: Thank you Commissioner. Prudential has absolutely expressed its willingness to file once this is resolved. We have been holding back on doing our first filing. As I said, we've already been talking with Fran as to how we can get involved. But until this matter is resolved, we're reluctant to jump into the pool so to speak. Obviously the only products that we have right now are some of the individual ones but we're absolutely looking forward to the group standards being developed and we'd like to play in the sand box. I can give you the commitment that Prudential will file if the public access rule remains the same.

Commissioner Cline: Thank you. I believe I saw Elaine with John Hancock who would also like to comment.

Ms. Leyton: Thank you Madam Chair. Yes, I would like to reiterate that John Hancock has supported the Compact since the beginning and will continue to do so if the amendments are not adopted.

Commissioner Cline: And the other companies that wish to—to respond to Commissioner Thabault's questions.

Ms. Johnson, UNUM: As I may state that our concern with "Mix and Match" is that we'll have some that we can file and we will evaluate doing so as we go. We have a large portfolio that we update regularly. "Mix and Match" will be considered as we determine what the standards are and what our product development is. I think there we have a large Life portfolio and there were Life forms that were filed before the Compact became operational. "Mix and Match" standards are a concern to the degree ...  
*(-Inaudible recording-)*

Commissioner Cline: Thank you.

Mr. English made comments. *(-Inaudible recording-)*

Commissioner Cline: Are there any further comments in addressing Commissioner Thabault's question. Miriam?

Miriam Krol, ACLI: I just wanted to put some things in perspective here. To date we've got about 35 individual life standards approved. We missed some of the opportunity for more individual life filings with the Compact because of the 2001 CSO Mortality Table situation where we tried to get an endorsement rider or amendment form that companies could use to file with the Compact but we were turned down in doing "Mix and Match" with it. So the companies were forced to go to the states; their CSO filings...it is probably going to be several months, if not years before companies need to file an individual product for life insurance since they just finished refiling those with the state. So, as to what activity you could see on the individual life market in the Compact, that may be limited but hopefully there are new products that come into play and companies need to in order to submit their filings. Individual annuity, I believe on 9/11 our four core standards became available for filing with the Compact, if I'm reading the effective dates right on the website. That should bring more individual annuity filings into play. However we're still having developed some benefit features that companies utilize to a great extent. We're working on market value adjustments and we're also working on guaranteed minimum death benefits. So again, companies need to have policy, the application and certain benefit features available in order to decide if they're going to file with the Compact. With Disability Income and Long Term Care, we have moved the fast as we can to get products developed for them—standards; they will start moving their way through the Compact approval process fairly soon. But today, companies cannot do individual disability and long term care filings. Nor can they do any group filings. Initially we prioritized individual life and annuity because the SERFF filing database showed us that, that's where most of the filings are coming in. So, should this Public Access Rule be kept the way it is today, I don't think we can guarantee how many filings will be made; but I think that speaking for ACLI and the industry, the more standards that we can bring into the Compact; get them adopted; and get them up and running—the less excuses companies would have for not filing with the Compact. But I think I've heard companies say that they're waiting for the right set of standards to be available for us, then of course we'll file with the Compact.

Commissioner Cline: Birny?

Mr. Birnbaum: Yes, thanks very much. I wanted to just respond to a couple of comments from Commissioner Thabault. First, Commissioner Holland asked if there are any examples of consumer association involvement and I can give you some examples. The Center for Economic Justice has commented on filings more often than not. Very often the vast majority of the filings that we commented on were either modified because we had pointed out things that regulators hadn't seen and the filings were not approved; filings that were posted for approval during a ten day public comment period; we commented during that period and the filings were ultimately modified and we have actually provided documentation; so consumers can have an impact. And partially the reason for that is we just bring a different perspective. Regulators generally talk only with insurance companies, so when consumer can bring a different perspective sometimes that makes a difference and sometimes it doesn't. As usual, Commissioner Long has cut right to the chase; stated very clearly and to the core that the Compact has trade secret status; so that when a company puts a tremendous amount of time in developing demographic analysis, actuarial analysis—all of that stuff, that's protected. What becomes public is the document that will eventually be given to the consumer. That's why with all due respect to the regulator friends from Vermont, that this so called compromising isn't going to work. Compromise will create an administrative burden; it will create this whole new infrastructure that's necessary to create this sort of involvement. The current process actually will handle the proposed amendment easily. Companies submit the filing,

and if they have trade secret addendum other than the actual policy, they can claim that trade secret and it's part of the existing process. No administrative burden to sending a copy of the product form filing to a requestor or even posting that product form filing on the internet. So there's no administrative burden; no slowing up in the process. As you've heard the comparison between four to six months in some states for innovative filings says that the Compact is in apt. Basically, you have it in the rule that you will get it done in 60 days. So, consumers can comment but it's not going to slow down the process. The original proposal, will not create an administrative burden. Finally, I'd like to offer my prognosis on what will happen. I think what's going to happen is number one, the OFC proposal will go down in flames because the federal regulators have been so discredited due to the financial crisis that state insurance regulators have been involved in. Once the OFC goes down in flames, insurers are going to have a choice; do we continue working with the Compact which saves us gobs and gobs of money and is so efficient. I predict that insurers will continue with the Compact. Thank you.

Commissioner Cline: Thank you. Are there any further comments from other members of our Consumer Advisory Committee?

Mr. Lovendusky: Madam Chairwoman. Birny Birnbaum made a remark, which I think at least ACLI would agree with. That has to do with the relative merits of the Vermont proposed amendment—the alternative. And industry advisors again congratulate Vermont for the effort. But I think that we agree with Mr. Birnbaum that the option of the Vermont alternative actually might be less feasible of an amended Public Access Rule.

Commissioner Cline: Thank you. Are there further comments? If there are no further comments, then I would like to close the public hearing. And I would like to thank everyone for their participation, and for their interest and involvement. And I want—would like to particular thank the state of Vermont for working so diligently for trying to come up with a viable solution to address everybody's concerns. I know that you spent a considerable amount of time working on this issue. So thank you to Vermont and the Rulemaking Committee for all their work. And also to Texas for their participation. Thank you. I would like to note that at 11 o'clock, there will be a presentation on interstate compacts, and some of the history of the evolution of interstate compacts. And lunch will be provided back in this room at eleven o'clock. And it is open.

Ms. Arricale: For those who are not attending at 11, the Management Committee starts at 12 noon.