



**Summary of the Forum on the use of data in retail general insurance
Financial Conduct Authority (FCA)/ Information Commissioner's Office (ICO)
Monday 16 January 2017**

In September 2016, the FCA published a feedback statement following its Call for Input on Big Data in retail general insurance. The feedback statement highlighted stakeholders' concerns about the use of data and data protection issues. As a result the FCA and the ICO held a joint forum to further engage with the industry.

This document provides an overview of the three areas that were discussed in the breakout sessions:

- Social media.
- Obtaining consent and transparency of data.
- Data protection.

Overview of key themes

The key themes that arose during the forum include the:

- Importance of gaining consumer trust by helping consumers understand the potential value to them of sharing data and explaining how the data are being used.
- Challenge of how best to inform consumers and get consent. Related to this, the trade-off between being transparent, fully informing consumers and overwhelming them with information, and whether a legal duty of care to consumers may work better.
- Interface between the ethics of data use and the letter of the law, and what the competitive effects of ethical use of data might be.
- Difficulty of ensuring the accuracy of Big Data, the portability of data and ownership of different sources of data.
- Recognition that the use of Big Data for some practices (eg, fraud detection) may be more acceptable to customers than others (eg, pricing).
- Uncertainty around expectations on the incoming General Data Protection Regulation (GDPR), which will apply in the UK from 25 May 2018.

Next steps

In the coming months, the ICO is planning to issue an updated review of Big Data and further guidance on the GDPR.

Social media

Social media has proven to be useful in assessing claims or detecting fraud. There appears to be a degree of public support for this.

Use of social media for pricing and the issue of consent were discussed:

- Insurance companies are still unsure that using social media data for pricing will be effective, as they do not know which data would actually be of use. Without being able to test whether the data are valuable for pricing, firms are reticent about using it.
- Concerns were raised around the legitimacy of using social media data and consumer reaction. Insurance companies need to find a way to communicate a storyline to consumers where data are shown to be useful.
- Some firms expressed a need for experimentation with data to understand what use, if any, it would be to them. This raises the question of whether companies can rely on consent or another condition for processing the data
- It was generally felt that use of social media should be driven by consumers.
- Consumers may have differing levels of understanding of consent with some more vulnerable than others. When deciding whether to use Big Data, firms can consider the nature of consent, how the data are being used, likely customer reaction and alignment to firms' values.
- The GDPR presents a number of issues, including what data insurers can consider in making a quote, and the requirements relating to consent.
- The issue of what happens in the future if the use of social media data for insurance pricing reasons becomes the norm was discussed.

Obtaining consent and transparency of data

Consumer understanding, interest and concern vary across data use, where data use could be broken down into:

- What data is being collected.
- How this data is being processed and by whom.
- How the use of data impacts outcomes for consumers.

On giving information to consumers about how their data is used, the discussion included:

- Consumer understanding of the issue, which can be limited. Being able to explain clearly and succinctly what firms are doing can be challenging. This is particularly important where firms are doing more with the data, or using it in ways that the consumer might not expect.
- The importance of building trust with the consumer and being able to show value exchange i.e. what is in it for consumers.
- To what extent transparency around data use can be future-proofed given rapid developments in use of data.

Some firms stated that they do not seek to rely on consent to legitimise processing consumer data in all cases, as consent can be difficult to obtain and could be withdrawn at any time. 'Legitimate interest' and 'necessity for contract' are commonly used alternatives.

The GDPR presents a number of issues with firms keen for guidance from the ICO as soon as possible. With annual insurance contracts, firms are already thinking now what changes they will need to make this year to be able to re-engage with consumers next year once the GDPR kicks in.

Data protection risks

Potential consumer concerns about data use were expressed:

- Consumers of different generations may have different concerns. Younger consumers may be more aware of the value of their data, and expect something in exchange for sharing. Older consumers may have different perceptions of risk.
- Many consumers focus on cyber security risks and data breaches. Most are not aware of other risks in sharing data and consumers tend to think about the risks after something had gone wrong.

Privacy Impact Assessments (PIAs):

- The view was expressed that time is already put into privacy considerations and there was some concern that the GDPR would turn PIAs into a purely formal assessment. Participants also felt considerable effort is put into trying to determine what is an acceptable risk, since they perceive many grey areas and they would welcome a clearer view of what the ICO considers to be acceptable.

Inaccurate data:

- Some participants discussed the effort already put into detecting and correcting inaccurate data, but felt they could not catch everything.
- Avenues for consumers to check their own data (beyond subject access requests) already exist for some databases eg, from the Driver and Vehicle Licensing Agency (DVLA), but consumers may not be aware of these. It was generally agreed that increased transparency and awareness for both firms and consumers could help with this issue.
- There was also some discussion on how difficult it is to explain to people how their data is going to be used, and how hard it is for consumers to compare the practices of different firms.

The key points made on data ethics included:

- There is a role for industry on data ethics. Some firms had already grappled with this, for example in relation to telematics and disclosures to law enforcement or emergency services.
- Concerns were expressed that the GDPR would create a focus on compliance rather than ethics, and ethical considerations would not be captured in form filling.
- There was some discussion of whether data ethics could provide a competitive advantage, or whether price would trump all other factors as a focal point for competition.
- Participants welcomed greater engagement with the ICO in producing guidance for the industry. There may be increasingly less human interaction and more machine learning, which creates legal and ethical issues that need to be addressed. It was questioned to what extent industry had the capacity to become more transparent on its own.

Recent publications

FCA

FCA Feedback Statement on the Call for Inputs on Big Data in retail general insurance.

<https://www.fca.org.uk/publications/feedback-statements/fs16-5-call-inputs-big-data-retail-general-insurance>

FCA Occasional Paper No.22 – Price discrimination and cross-subsidy in financial services.

<https://www.fca.org.uk/sites/default/files/op16-22.pdf>

Speech by Andrew Bailey – The challenges for insurance and regulators in a Big Data world.

<https://www.fca.org.uk/news/speeches/challenges-insurance-regulators-big-data-world>

ICO

Guidance –what to expect and when.

FCA ICO Big data forum 20170116 summary

<https://ico.org.uk/for-organisations/data-protection-reform/guidance-what-to-expect-and-when/>

Overview of the General Data Protection Regulation.

<https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/>

Privacy notices, transparency and control.

<https://ico.org.uk/for-organisations/guide-to-data-protection/privacy-notice-transparency-and-control/>