Fixing What's Broken

PRACTICAL CONSUMER-FRIENDLY INSURANCE REFORMS TO SAVE MONEY

CONSUMER CHOICE CENTER

INTRODUCTION

Nothing is certain but death and taxes, said Benjamin Franklin. Today, you can probably add *insurance premiums* to that list.

In the monthly budget of the average American consumer, it's more than likely there's a considerable percentage dedicated to covering the cost of some kind of insurance policy. There's health and life insurance, car insurance, rental insurance, insurance policies on homes, property, titles, individual assets, and even crops and pets. Some laws even force citizens to take out specific insurance policies or risk facing a penalty.

At an estimated $1.5 trillion, the insurance market in the United States is the world's largest and most comprehensive, offering a slew of packages and services to provide financial relief in the event of some kind of catastrophic loss or injury.

Insurance is intended to be a product of risk management, protecting consumers from catastrophic financial loss due to unforeseen or unpredictable events that mean you'll get higher bills or face a one-time astronomic cost. As consumers, patients, renters, and property owners, we gladly transfer risk to reduce costs while maintaining protection.
For the typical insurance contract, we pay a monthly premium to contribute to a fund held by an insurance company accessed when needed, especially in emergencies. That balancing of financial risk is how insurers make money, hoping to pay out less than they take in from premiums, while consumers benefit by not having to bear the full cost when unexpected expenses occur.

Over time, as more creative insurance plans have been crafted and several middlemen have been introduced to capitalize on this system, consumers have been forced to dedicate more of their income to premiums and significant price inflation has happened as result.

Especially in health insurance, we've seen a rise of what we call the "insurance piggy bank delusion," wherein routine and ordinary costs are expected to be paid by insurance pools rather than just for emergencies. The dominating role of government insurance plans only further distorts these inflationary effects.

For auto insurance, constrained markets have left it up to tort lawyers and the judicial system to decide what is fair for payouts and claims, also leading to higher costs. In life and health insurance, technological and health trends have made some risk calculations by insurance companies outdated or obsolete, begging for change to save money for consumers who've made healthier choices in their lives.

Auto Insurance

1. Allow for "auto choice" between no-fault and adversarial tort insurance for drivers.
2. Transition to a no-fault insurance model to eliminate the incentive for fraud, litigiousness, and risk inflation.

Health & Life Insurance

1. Decouple nicotine from tobacco in health evaluations to reflect scientific reality.
2. Reward ex-smokers who've made the decision to use less harmful nicotine products.

OUR GOAL

To better serve consumers, we at the Consumer Choice Center believe insurance should be simplified, reimagined, and subject to intense competition. As such, we want to offer simple and consumer-friendly insurance reforms that would save costs for consumers.

Some of these are liberalized reforms that can be implemented by state and local governments, including State Insurance Commissioners, while others are science-based recalculations that should be taken up by actuaries and risk analysis professionals at insurance companies.

In this policy primer, we outline these reforms and where they can be implemented to provide for more competitive, reasonable, and accurate insurance rates to increase choice and lower costs for consumers.

Our specific reforms apply to life insurance, health insurance, and auto insurance, which represent a sizable portion of an American's monthly premium costs.

OVERVIEW
Consumer-friendly insurance reforms:

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AUTO INSURANCE REFORM

As a car-loving country with thousands of miles of interstates and local roads, Americans have an intimate relationship with their vehicles. Because we spend so much time in our cars, and because we drive more often than in other countries and have more accidents, it's only natural that we pay to insure against personal injuries and damage that may happen on the road.

By adopting "Auto Choice" reforms, consumers would have options to choose when they decide on their auto insurance plan, giving more opportunities for cost savings while allowing insurance entrepreneurs to capitalize on a more dynamic market for insured motorists.

Auto Choice

When accidents do happen, there are two different types of systems that govern how liability for those incidents occur in a particular state, both no-fault and adversarial, otherwise known as tort.

In a no-fault system, every insured car owner involved in an accident will have their costs covered by their own insurance company and plans, whether they caused the accident. This avoids a costly legal battle between insurance companies when it comes to covering damage and injury costs and doesn't require further investigations to determine fault to determine who is saddled with most of the liability and costs.

In the adversarial tort system, which is the dominant form of auto insurance today, liability must be objectively determined between the car owners involved in an accident, aided by police reports and investigations from insurance carriers. If that doesn't result in a satisfactory answer for either insurance provider, the matter is elevated to the legal system, where plaintiff attorneys will make their case for why their party isn't liable for the accident and can't be on the hook for any medical expenses or car repairs.

Considering the widespread use of tort liability in other domains of civil justice, which we have written about extensively at the Consumer Choice Center, this seems to be the area most ripe for reform.

An objective financial comparison of these two systems is beyond our remit, but many past and ongoing reform efforts have shown light on the significant savings possible for consumers.

Though each model has significant trade-offs, the best policy choice is to allow insurance consumers to choose the system they would prefer to have their plan under. This allows flexibility, removes the adversarial declaration of liability that inflates lawsuits, and allows companies to compete for our business with the best policies and plans available.

This proposal is called "auto choice," which has been a perennial reform advocated in both states and at the federal level. An entertaining Senate Commerce hearing from 1998 on these efforts, found on C-SPAN, lays out many of the arguments of both proponents and opponents.

Above all, bifurcating the type of models offered to auto insurance customers would have measurable cost savings gained by removing the element of adversarial trials and the need for lawyers and legal actions.

An estimate produced by the Joint Economic Committee of the House of Representatives in 2003 estimated that adoption of auto-choice models across the country would lead to a reduction of an **average of 21% on insurance costs, with a specific reduction of 37% to more low-income motorists.**

An earlier 1996 study to the same committee found that an auto choice model would save up to

$40 billion per year for insurers and consumers, translating into an average of $221 cost reduction per insured customer per year. They also estimate that less-risky drivers with a clean driving record would benefit even more, up to a 44.9% reduction due to a lower risk profile.

The last federal attempt to introduce such a bill was the Auto Choice Reform Act of 2004 by US Sen. John Cornyn [R-TX].

The Canadian province of Alberta committed to similar reforms in early 2024, and is in the process of experimenting with a no-fault model within its public system for the same reason of higher costs, minimal payouts to injured motorists, and a capricious legal system.

But where would these cost reductions come from and how could we ensure they would be passed on to consumers?

These savings would be recouped by eliminating wasteful or fraudulent claims weaponized by accident victims and perpetrators, but most importantly by removing the need for accidents to be relegated to the costly legal system and the individuals who benefit from it.

With auto choice, consumers would have the opportunity before they sign their insurance contract to pick their preferred option in the hybrid model. One model, the no-fault, would require personal injury insurance in addition to car insurance, and the tort model would only consider car insurance but require a legal process that takes some time and effort.

By allowing consumers to choose between these two models, they can establish their risk preference and tolerance, and lead to more flexible options for drivers who may drive more frequently or less, or perhaps would rather immediately settle potential insurance claims without much fuss.

This binary choice would also allow insurance firms to offer much lower rates to those who may be willing to take the risk, or charge slightly higher for those who aim for convenience.

The “auto choice” model would require a change in state law or regulatory guidance from state insurance commissioners to allow this hybrid option, leading to more choice for consumers and lowering costs in the end as well.

No-fault

As noted above, there have been several federal reform efforts in the auto insurance market to allow for both auto choice and a more general transition to a no-fault model.

As chronicled by Peter Kinzler, a former congressional staffer and president of the Coalition for Auto-Insurance Reform, many of these legislative reforms have buckled under pressure from "determined opposition from trial lawyers and the malign indifference of insurers."

In tort systems, which remain the majority in the US, the process following an accident requires the need for attorneys and legal proceedings that will inevitably reward one side.

Many trial lawyers fear that a change in the model of auto insurance would threaten their livelihood representing clients in auto accidents claiming injury, disability, or damages, in which lawyers are able to collect a percentage of the reward. They would be correct.

Due to the role of insurance providers as third-party actors, or middlemen, there is an incentive to seek the largest possible settlement reward after an accident. This is the crux behind the plethora of auto accident legal ads you may have seen on television or on billboards.

If you or a loved one have been involved in an accident, and believe you have a case against the driver that caused it, a smart lawyer would be able to structure a highly lucrative payout due to the costs incurred: injury, loss of work, death benefits, loss of valuable assets, etc.

While these settlement amounts may be appropriate and just, there is also an incentive created to vastly overstate or exaggerate the financial costs of an accident to an individual or their car.

This leads to ballooning reward costs that must be paid by the insurance companies. This, in turn, influences insurance companies' finances and overall risk tolerance, and will require higher premiums to guard against boated settlements that quickly lead to higher costs.

Transitioning this model to one of no-fault would therefore initiate immediate cost savings and great entrepreneurial opportunities for insurers.

As of 2023, there are currently 12 US states with no-fault auto insurance: Florida, Hawaii, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Dakota, Pennsylvania, and Utah.

A RAND study from 1997 found that insured residents living in auto choice states would see reductions of up to 30% were they to switch to a no-fault plan, while those with tort plans would enjoy the same price.

Car insurance

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HEALTH & LIFE INSURANCE REFORM

Though millions of Americans continue to use combustible tobacco products, there is now a growing segment of the population that wants access to innovative and less harmful nicotine products that can reduce their chances of developing certain comorbidities in the future.

The more Americans who switch from smoking combustible tobacco to a less harmful nicotine alternative, such as vaping devices, gums, heaters, or pouches, equates to less money spent on preventable diseases associated with combustible tobacco use, effectively saving consumers and the economy money in the long term.

Ensuring that insurance take-in forms differentiate between tobacco and nicotine use will help educate Americans about nicotine alternative options, and lead to a more accurate risk profile for insurers.

Incentivizing Americans to switch to less harmful nicotine alternatives will reduce the amount of money consumers spend on insurance premiums by reducing their overall health and life insurance risk in the market, and help boost innovation and competition among insurance firms.

The change in nicotine delivery

Innovative nicotine products like vaping devices, pouches, and heaters are gaining popularity in the United States by providing consumers with less risky options to traditional combustible tobacco products. According to CDC reports, it's estimated that 28.3 million adults in the U.S. currently smoke cigarettes and 11.6 million adults currently use nicotine vapes.

Currently, there is no differentiation between nicotine and tobacco use on health and life insurance forms – meaning those who use less harmful nicotine alternatives are being lumped into the same category as those who smoke combustible cigarettes. This is despite not facing the same risk.

Generally, health insurance companies can (and do) charge upwards of 50% or more in premiums for an individual who uses tobacco or nicotine products in comparison to someone who does not use these products at all.

Clearly, this lack of differentiation between tobacco and less harmful nicotine delivery on health and life insurance forms costs consumers who are making better choices for their health. Studies continue to show that vaping is 95% less harmful than smoking combustible tobacco, while other nicotine alternatives like oral pouches have been recognized by the FDA as reduced-risk products.

Without this distinction, consumers who use reduced-risk nicotine alternatives are paying the same increased rates for health and life insurance as consumers who use combustible tobacco, a move that financially penalizing consumers for switching to a less harmful option while also simultaneously disincentivizing those who currently smoke combustible tobacco to move towards a less harmful nicotine alternative that could reduce their risk of developing a smoking-related illness or disease.

Separating tobacco and nicotine use on insurance intake forms would give consumers the power to make more educated choices regarding their health habits. Currently, 79% of U.S. adults say cigarettes are "very harmful" to people who use them and 57% say the same about e-cigarettes, despite evidence showing the significantly reduced-risk of e-cigarettes.
If life and health insurers acknowledged the lower risks linked to vaping, nicotine pouches, and heat-not-burn products, it could effectively educate and incentivize the 28 million Americans who currently smoke to switch to safer products.

Cheaper premiums for people who use non-combustible nicotine products would save consumers a lot of money, while also cutting down on overall healthcare system costs. The CDC estimates that smoking-related illnesses in the U.S. costs more than $225 billion in direct medical care for adults, a staggering number that could, and should, be reduced.

This easy change in policy to distinguish between nicotine and tobacco use could lead to a bigger shift towards harm reduction lowering the number of smoking-related illnesses and deaths while drastically trimming the long-term costs of health issues associated with smoking combustible tobacco.

Additionally, implementing this change would be a much more effective way of reducing smoking rates instead of the continued attempts to fully ban products through Prohibition-esque policies that never work and only embolden the illicit market and damage public health.

Embracing less harmful nicotine alternatives would also greatly benefit the insurance companies. Researchers found that after an initial investment into smoking cessation treatments, the medical benefits from moving individuals away from combustible cigarettes accrue over time.

In fact, the benefits would generate a positive ROI by year 4 for commercial and Medicaid plans and by year 3 for Medicare. This is a win-win all around – consumers are incentivized and rewarded for using less harmful nicotine products, which in turn would help reduce the amount of individuals developing smoking-related illnesses while improving overall public health, meaning insurance companies spend less money covering medical care for preventable diseases and illnesses associated with combustible cigarette smoking.

The health and life insurance industries must accept the risk profile of the new generation of nicotine products and recalibrate their plans. Many health and life insurance policies, for example, still equate smoking cigarettes with using non-tobacco nicotine products. That practice should change to better reflect scientific reality and facts to better serve consumers and improve public health.

Health & Life Insurance

1. Decouple nicotine from tobacco in health evaluations to reflect scientific reality
2. Reward smokers who've made the decision to use less harmful nicotine products.

CONCLUSION

As with any market reforms, there are many parties that could be impacted by these recommended policy reforms for insurance consumers, and for good reason. Our goal is to offer simple solutions that will embrace choice, enhance competition, and reduce costs so savings can be passed on to consumers.

With a growing technological and health shift for nicotine users, as well as a transition to a less adversarial insurance system after car accidents and injuries, we believe our current models for risk analysis in insurance plans must be updated to reflect both scientific and policy reality.

Led by state insurance commissioners, state legislators, and creative entrepreneurs, we believe these reforms would have an immediate impact on both consumers' insurance premiums and risk profiles for insurance firms. Removing the barriers or miscalculations that bloat costs and overgeneralize risk will help consumers in the long run, and help reestablish a more competitive and thriving insurance market.

ABOUT THE AUTHORS

Yaël Ossowski

Yaël Ossowski is a consumer and technology advocate, journalist, and writer. He is deputy director at the Consumer Choice Center.

Since 2010, he has worked as a journalist, policy analyst, and grassroots organizer both in Europe and North America. He was previously Watchdog.org's Florida Bureau Chief, chief Spanish translator, and national investigative reporter from 2012-2015, and Senior Development Officer at Students For Liberty.

His articles have appeared in USA Today, The Hill, The Chicago Tribune, Washington Examiner, La Presse, Le Journal de Montréal, Charlotte Observer, Miami Herald, The Philadelphia Inquirer, Detroit News, Reason Magazine, American Spectator, Huffington Post, FoxNews.com, and much more. He has had over 1,000 articles published in newspapers, magazines, and online outlets.

Elizabeth Hicks

Elizabeth is the U.S. Affairs Analyst for the Consumer Choice Center.

She joined the CCC in 2021 with a background in grassroots organizing, community development, and external relations. She has been featured in The Gazette, FEE, Rare, among other outlets.

Elizabeth graduated with a BA in Political Science from the University of Iowa in 2015. She spent 6 years working in Washington, D.C. and has since moved back to the Midwest, now living in Detroit.

ABOUT THE CONSUMER CHOICE CENTER

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The Consumer Choice Center is a non-profit organization dedicated to defending the rights of consumers around the world. Our mission is to promote freedom of choice, healthy competition, and evidence-based policies that benefit consumers. We work to ensure that consumers have access to a variety of quality products and services and can make informed decisions about their lifestyle and consumption.

As an independent nonprofit organization, the Consumer Choice Center relies on support and funding from private donors. As described in our Code of Ethics, we strictly maintain editorial independence and do not give our funders any influence on editorial decisions. Our support comes from corporations, individuals, and foundations. We have a tiered membership model available to members who support us on a yearly basis, equalling silver, gold, and platinum status.

In the past and currently, we have received funding from multiple industries, such as energy, fast-moving consumer goods, nicotine, alcohol, airlines, agriculture, manufacturing, digital, healthcare, chemicals, banking, cryptocurrencies, and fin-tech.

Find out more at **www.consumerchoicecenter.org**

CONSUMER
CHOICE
CENTER

info@consumerchoicecenter.org
www.consumerchoicecenter.org

712 H St NE PMB 94982
Washington, DC 20002