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## Usage-based insurance: Big Brother along for the ride



PERSONAL INJURY OPINION

By Leonard Kunka

Desjardins General Insurance Group has recently launched usage-based auto insurance (UBI) to its policyholders, *Canadian Underwriter* reports.

The concept is relatively simple. By attaching a wireless device to the automobile's onboard computer and mechanics, insurance companies will be able to obtain information about an insured's driving habits, including acceleration, braking, speed, distance travelled, and the times when the vehicle is being operated.

Insurers are quick to point out that the devices do not have GPS and therefore will not track actual locations where the vehicle is driving. In return for agreeing to opt into this program, drivers could potentially receive a lower annual automobile insurance premium, if their driving habits disclose they are a "safe" or "less risky" driver.

This type of electronic device is already widely used in the USA by numerous insurance companies. The *Boston Globe* reports that as of September 2012, over 1.5 million U.S. vehicles have been equipped with the device.

A research study conducted by *ABI Research* in February 2012, predicted that by 2017 the number of users of this technology could reach 89 million worldwide.

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Insurance companies will argue that the information collected from such devices allows insurers to more accurately match insurance rates, deductibles and perhaps other coverage to actual driving practices. At first blush, one wonders how that information is more relevant to assessing risk for an established driver, compared to the information insurance companies currently use to assess the risk and set a driver's premium.

Currently, insurers consider a person's actual driving record, (driving infractions and convictions) as well as claims history (accidents and payouts by the insurer), to determine who is a better risk and therefore pays a lower premium. Is that information not a reliable measure of the risk the insurer is trying to insure?

As pointed out in a recent *New York Times* article, many examples can be envisioned of potential unfairness which could result from this technology. For example, just because a person has to travel daily on the highway to work, (thereby operating their vehicle in excess of 80 kms/hr for much of the time they are driving), does not necessarily mean they are a poorer driver than someone who has to drive slowly through congested city traffic each day to get to work.

It is quite likely however, that insurers would consider the former driver a poorer risk because of the amount of time the driver is operating the vehicle on a highway at speeds in excess of 80 km/hr.

The critical question which arises from these concerns is who will be setting the standard for what constitutes "safe" versus "poor" driving practices. I would certainly want to know what data would put me into a "good risk" driver category or a "poor driver" category before agreeing to use the UBI system to set my insurance premium.

An immediate concern of this type of invasive technology is that if insurers are interested in promoting it, there is likely to be a greater benefit to the insurance industry than to the driving public. I would be skeptical about any promise of reduced premiums, in view of the numerous past promises of the insurance industry to reduce premiums in return for a reduction in insurance benefits and coverage, when such premium reductions have not materialized.

An argument could also be made that insurers will use this technology to slowly ratchet up all drivers' premiums. Another major concern with the introduction of this type of technology is that insurers will ultimately try to penalize drivers who chose not to opt into this type of program, by automatically considering them to be a poorer risk than those who allow their driving practices to be monitored.

Finally, who is going to bear the costs of purchasing and installing these devices and the computer programs necessary to analyze the data? Are we to believe the insurance industry will absorb those costs and at the same time pass along substantial premium reductions to good drivers, or is it more likely that those costs will be passed along to all drivers, thereby impacting any premium savings?

It is hard to argue that drivers' behaviour will not be affected by this type of technology. Most drivers will be more conscious about avoiding aggressive driving habits if they know their driving is being monitored, which would have a positive effect for all of society.

It is also difficult to argue with the concept that poorer drivers should bear the expense of their behaviour by higher insurance premiums, whereas good drivers should not be expected to subsidize the bad drivers. Drivers who drive less frequently or at times when there is historically less traffic, and who drive more safely, should receive significant discounts in their insurance premium to warrant this type of data being collected.

One area where the usage-based concept of setting insurance premiums makes sense is in the case of newly-licensed drivers who do not have an extensive driving history. Parents of young drivers might also find the data relating to how their children are driving very informative.

Critics will argue that such technology is too intrusive, and the information can be manipulated by insurers in a manner which essentially allows the insurers to set their own standards regarding who they consider to be a safe driver. By doing so, insurers will be able to better control their profit levels, rather than actually providing reduced premiums to better drivers.

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From a legal perspective, usage-based data which is collected by insurance companies has huge implications for accident investigations/reconstruction and litigation.

As plaintiff's counsel, I would be very interested in requesting production of the usage-based data from the defendant's insurance company in any automobile accident claim for a substantial period of time prior to the accident. That data would give me a great deal of insight as to whether the defendant was historically an aggressive or unsafe driver.

This type of technology would represent a major shift in the way insurance companies set their premiums. The jury is still out on whether this technology will prove beneficial to consumers. It is incumbent on the Superintendent of Insurance to review the practices of insurers employing this technology to ensure that it is being used to actually pass along premium savings to good drivers, rather than being used as a covert way to impose higher insurance premiums upon all drivers.



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