

Ownership of data collected by telematics devices: a key issue for the RCCAQ

Automobile insurance has always been one of the cornerstones of the personal insurance brokerage industry. But due to a combination of politics, the highly competitive Quebec market and telematics (information/telecommunications technologies), automobile insurance continues to lose its central role.

As its name suggests, telematics is a blend of state-of-the-art telecommunications and information technology. The sector is expanding rapidly. Some industry analysts believe that 10-30% of auto insurance policies in Canada will be based on and priced using telematics within three years. Other observers forecast that by 2017, 60% of vehicles worldwide will be “connected” in order to monitor drivers’ habits as well as vehicle/driver safety.

In the face of such rapid growth, a number of organizations have established benchmarks for insurance industry actors aimed at regulating the use of telematics. In this regard, on January 20, 2014, the Centre for Study of Insurance Operations (CSIO) released a series of telematics data standards for insurers.

Back on October 3, 2013, the Financial Services Commission of Ontario (FSCO) issued a bulletin on usage-based insurance pricing (UBIP) geared towards companies authorized to sell auto insurance in Ontario. The goal was to communicate to insurers various considerations and requirements for automobile insurance filings that contain a UBIP component.

On November 20, 2013, the RCCAQ met with Quebec’s Autorité des marchés financiers (AMF) and pointed out that, despite the appearance on the Quebec market of UBIP programs such as Desjardins’ Ajusto or Industrial Alliance’s Mobiliz, the AMF has yet to issue any guidelines on telematics-based devices.

It should be noted that these types of devices enable insurers to gather detailed data on policyholders’ travel, acceleration and deceleration patterns, i.e. on their driving or “lifestyle” habits, among other things. Issues around dataholders’ rights and information ownership (is information owned by the policyholder or by the insurer?), as well as privacy protection issues, should be taken into consideration when establishing telematics guidelines.

Our position

The RCCAQ takes a favourable view of this new technology, which will enable consumers, based on the data collected, to receive enlightened advice from their broker and to enhance their coverage. However, although the implementation of telematics is still in its infancy, we believe the AMF should issue guidelines for all insurers with respect to the data collected using this technology. The core principles of the RCCAQ’s position are as follows:

1. Telematics should remain a “voluntary option” for consumers.
2. Consumers should give their informed consent (i.e. insurance representatives should provide clear product explanations in accordance with their ethical and legal requirements, particularly as regards Section 28 of the *Act respecting the distribution of financial products and services*).
3. Telematics data should be processed and treated as personal information, in accordance with the *Act respecting the protection of personal information in the private sector* and any other privacy-related legislation, even if the data does not concern an identifiable individual’s driving patterns. It thus goes without saying that data concerning a consumer’s private life belongs to the consumer.
4. The data may only be used for pricing purposes.
5. The raw data should be made available to consumers so they can “export” them if they wish to obtain a quote from another insurance company.
6. The data should be stored securely and should remain in Canada; otherwise, consumers should be notified. The implications of storing data outside Canada should be clearly understood by all parties.
7. Consumers should not be required to share data except for insurance-related purposes (e.g. not for marketing purposes). Consumers should not make any commitments in this regard unless they have clearly consented to share their data.
8. Insurers have no right to sell consumers’ data to third parties.
9. Insurers should be required to disclose to consumers and to the AMF which data they are using and should not have access to any other data collected. If insurers decide to use data for purposes other than pricing, they should be required to make a declaration in this regard and should notify consumers accordingly.
10. If data must be stored for a certain length of time to meet legal requirements, it must be securely destroyed afterwards.
11. Consumers who decide to change insurers should have the option of removing the telematics device so that information is no longer transmitted to the former insurance company. The former insurer should also ensure that no information on the client is received once the policy has been terminated.
12. The device cost and the installation/operating fees should be covered by the insurance company; they should not be charged to consumers.
13. Insurance brokers should have access to various insurance companies’ net pricing-related data as well as to any communications between insurers and policyholders in order to advise clients based on their needs and specific situation.

In conclusion, in order for brokers to better advise their clients, the RCCAQ believes that it is essential that consumers not be forced to choose a policy or an insurance company, nor should their right to privacy be compromised due to the uncontrolled circulation of sensitive data concerning them. As a matter of urgency, we thus urge the AMF to establish a framework governing the ownership and use of data collected by telematics devices.