

Viewpoints, Outlook

Who's protecting whom? Texans need a choice

Modern state regulation will lower insurance rates

By **BILL PEACOCK**

"Many people want the government to protect the consumer," said the late economist Milton Friedman. "A much more urgent problem is to protect the consumer from the government."

Friedman's words particularly ring true regarding the Texas insurance industry.

Since World War II, regulation of insurance has been justified in the name of ensuring "affordable" prices. Experience, however, shows that regulation has led to wild swings in prices and availability.

States like Illinois and South Carolina have proven that a modernized regulatory approach focusing on fairness (ensuring that the cost to a policyholder reflects his level of risk) and solvency (ensuring that companies have the financial resources to pay claims) in lines such as auto and homeowners' insurance creates a more stable and healthier industry. Since their reforms, both states have seen more companies enter the market, stable rates and smaller residual markets.

A study that compared Illinois' auto insurance market to other comparable states found Illinois to have more predictable "rate levels, lower consumer prices, the highest number of insurance carriers in the nation, and a low number of uninsured drivers."

Texas insurance regulators, however, operate as though none of this has taken place.

This summer, the Texas Department of Insurance rejected or threat-

ened to reject three rate filings by two different insurers. And this week, they are preparing to "crack down" on affiliated business arrangements, where one company owns or controls another and is in a position to refer business to the controlled business in title insurance, ignoring the obvious efficiencies gained by such arrangements.

This approach to regulation turns on the notion that without government oversight, insurance companies will take advantage of consumers. They make this assumption based on the fact that a few insurers tend to serve the majority of the homeowners' market, and thus can exercise "market power" over consumers.

If competition was working in the homeowners' market, critics contend, more people would have left the larger providers and chosen providers that offered lower prices.

They claim the existence of consumers sticking with higher prices is proof that consumer choice is not readily available; thus consumers need protection from the larger companies who are profiting at their expense.

Of course, no standard is ever offered for how much business the large firms should lose before competition is considered optimal.

This was the same rationale that drove the debate on electric reregulation during the last legislative session. Market opponents said the market share of TXU in conjunction with higher prices was proof of their anti-competitive behavior.

But it has only been recently that the attempts of a company to take

market share from its competitors have been deemed anti-competitive. In more lucid times, companies increasing their market share were seen as being aggressive, and consumers who stuck with such companies were given credit for being sophisticated buyers. Research examining online "consumer stickiness" shows consumers sticking with one provider in the presence of lower prices elsewhere can be an indicator of a healthy, highly-competitive marketplace.

While the Internet allows consumers to search and frequently switch to alternative providers, "branding, awareness and trust" make consumers willing to pay higher prices to retailers that they have previously dealt with.

Consumers reign supreme in the marketplace. Nobody forces consumers to buy electricity, insurance or cell phones from a particular provider unless it's the government restricting availability via regulation, as it has done with telephone and electric service in recent times.

Every time consumers buy insurance or pay their electric bill, they signal that they have made an affirmative choice that satisfies their individual preferences.

If the price and product is good enough for consumers, it ought to be good enough for the government as well.

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