



Institute of Actuaries of Australia

# XIth Accident Compensation Seminar 2007

## Public Liability Tort Reform – Assessing the Impacts an Update

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## **Aims of paper**

- Update the October 2005 assessment by the TRWG
- Impact of tort reforms on consumers, plaintiffs, plaintiff lawyers and insurers
- issues for actuaries

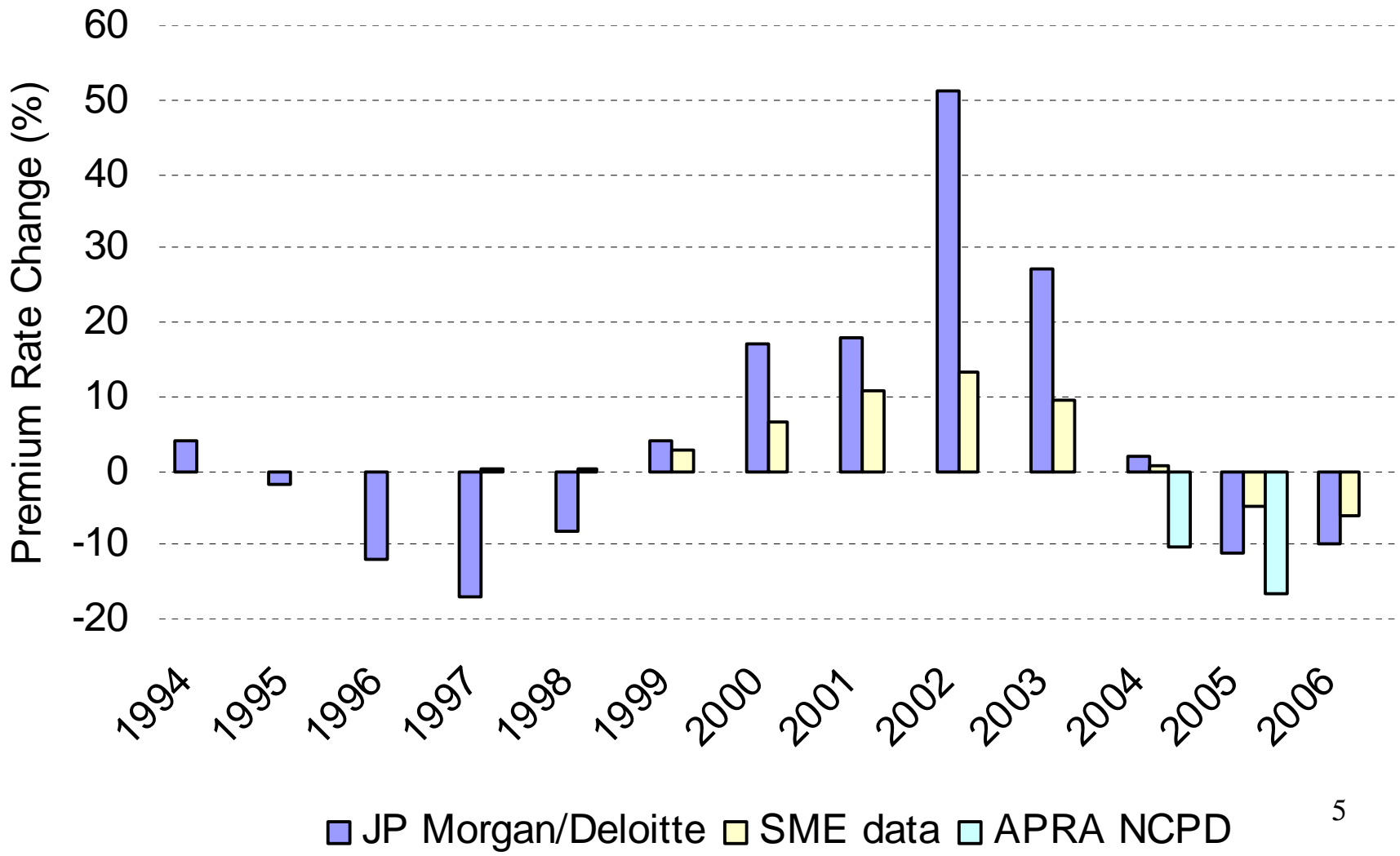
## Approach

- Compilation of variety of public information
- Collation of some confidential information
  - SME portfolio experience
  - Survey of valuation actuaries
- Basic projections and extrapolations requiring some “bold” assumptions

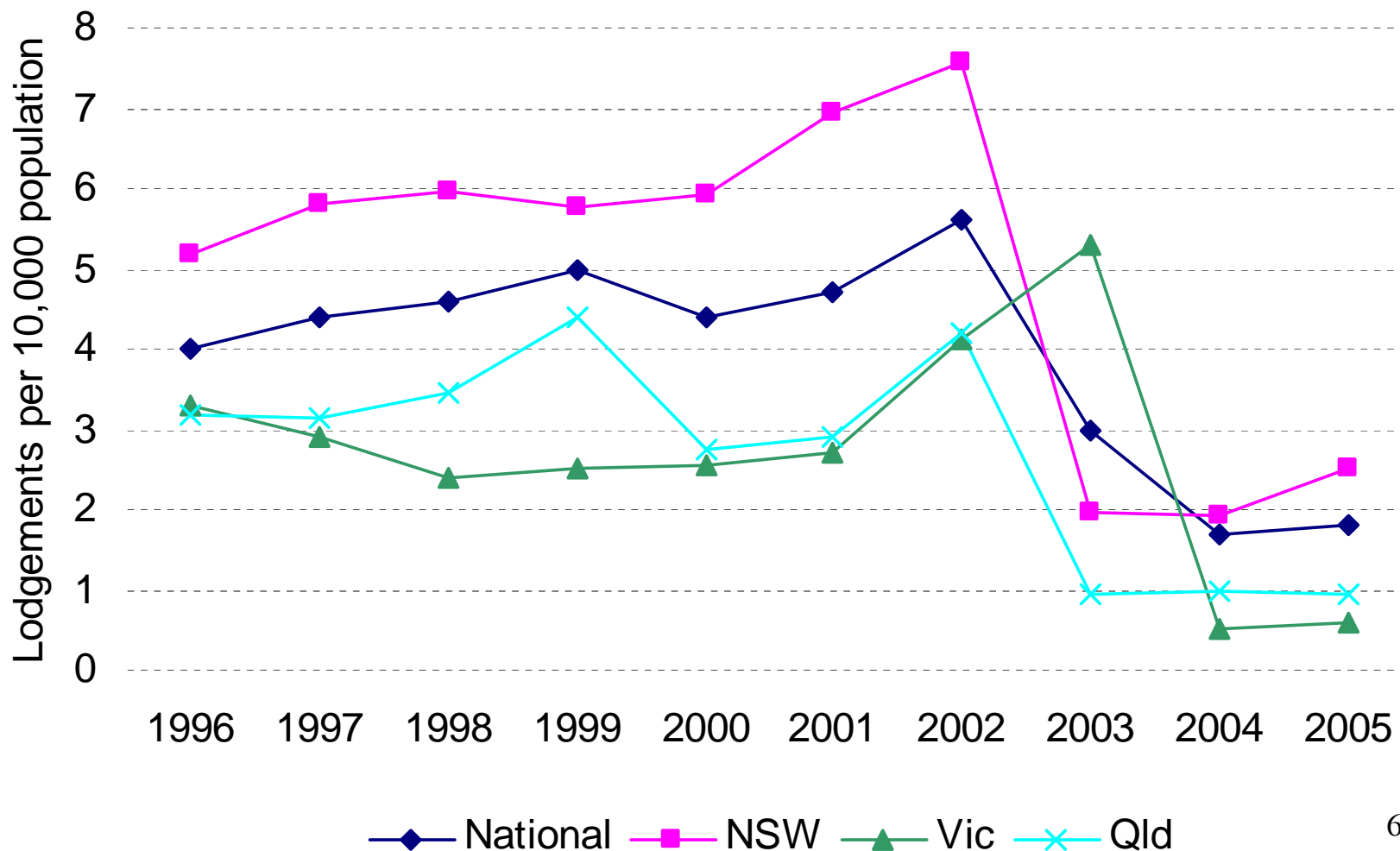
## Background to tort reform

- Insurance crisis of 2001 and 2002
- Escalating premiums and availability problems
- Variety of reforms to reduce costs and provide more stability
- Different package for each state

## Consumers



## Plaintiffs



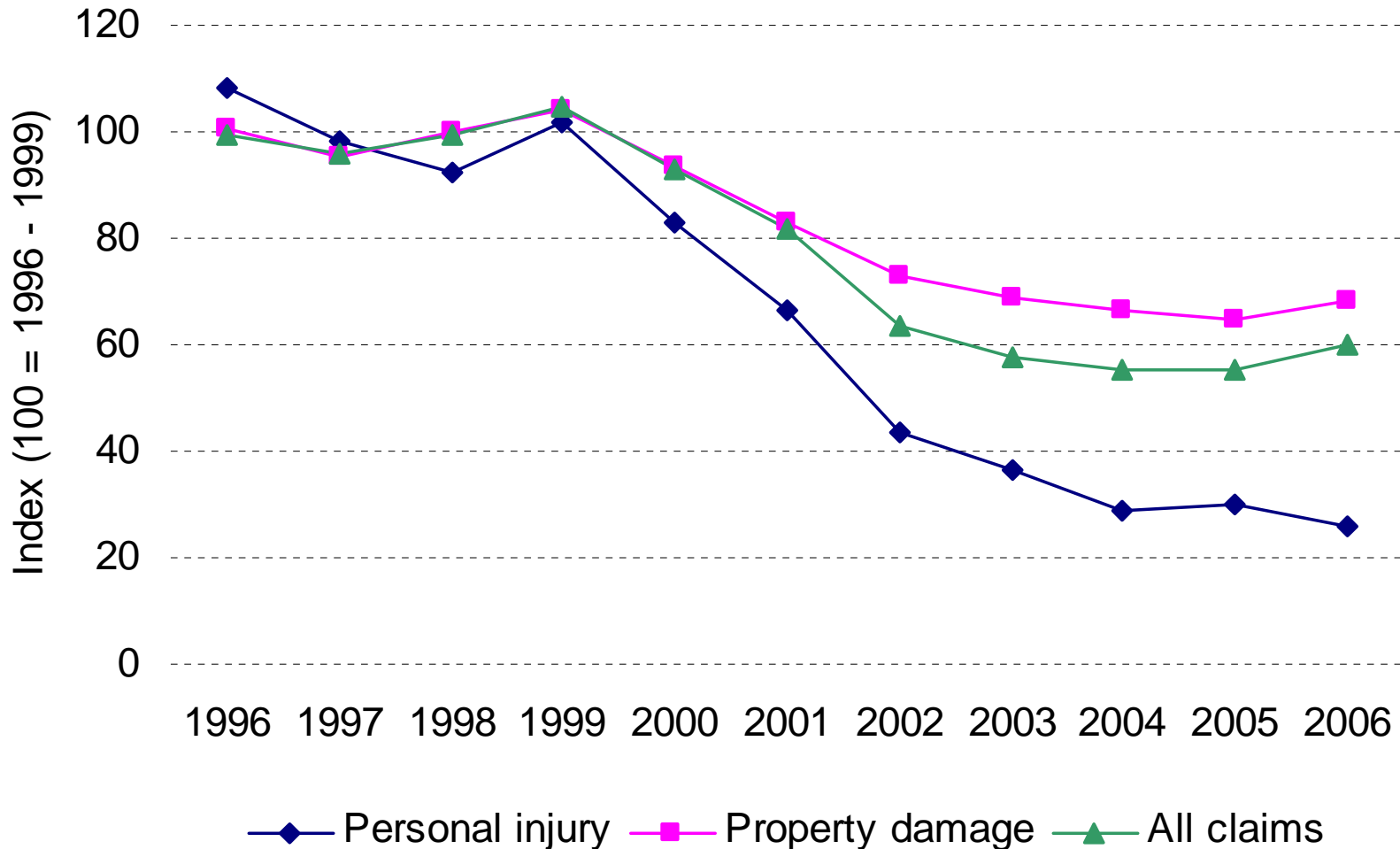
## Plaintiff lawyers

- Rights of injured people to compensation vs insurance company profits
- Tort reforms not soundly based on evidence and have gone too far
- Impact of the change in attitude of the High Court and appellate courts not taken into account
- Fair go for injured people campaign in NSW

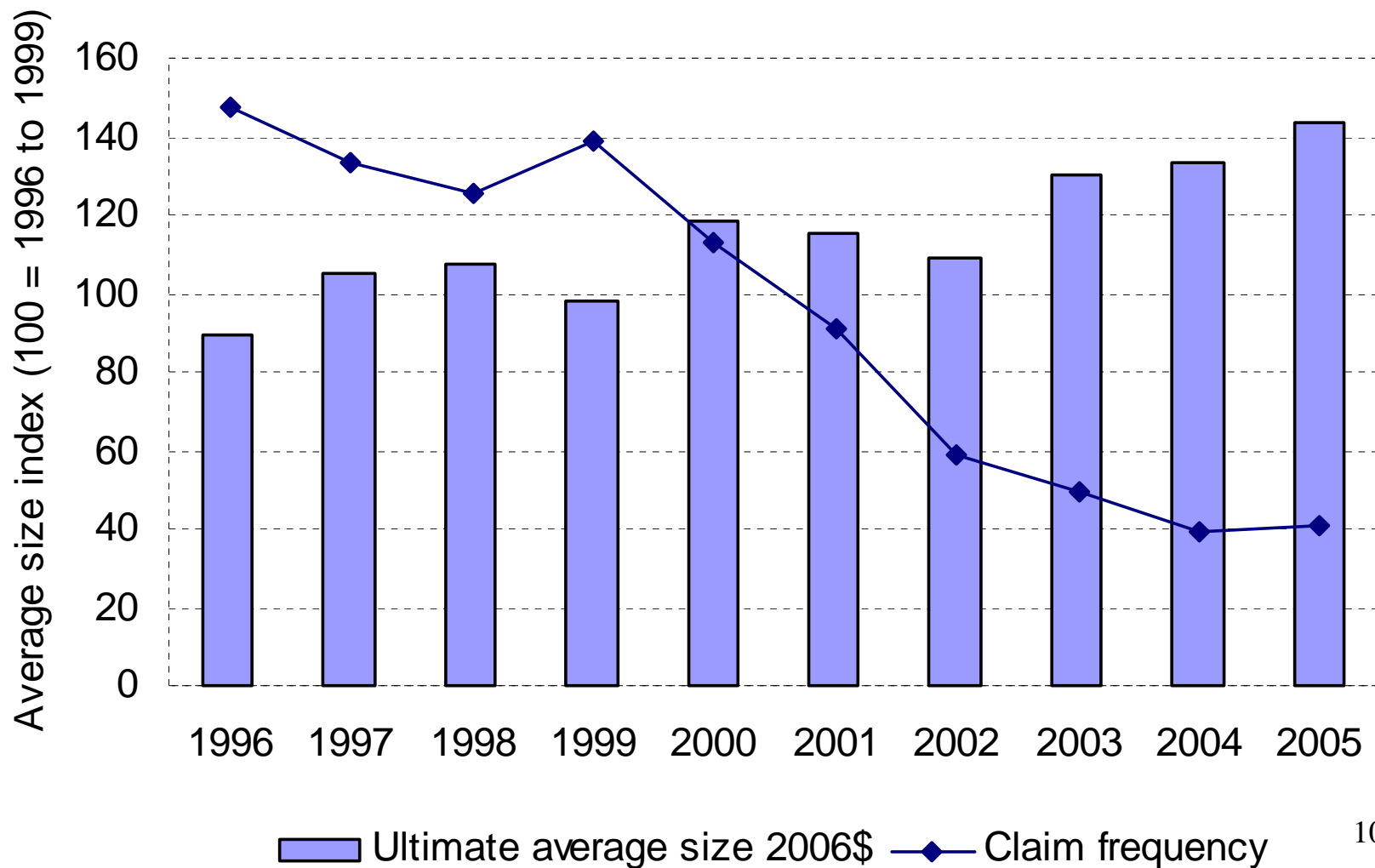
# **Insurer perspective Claim experience & profitability**



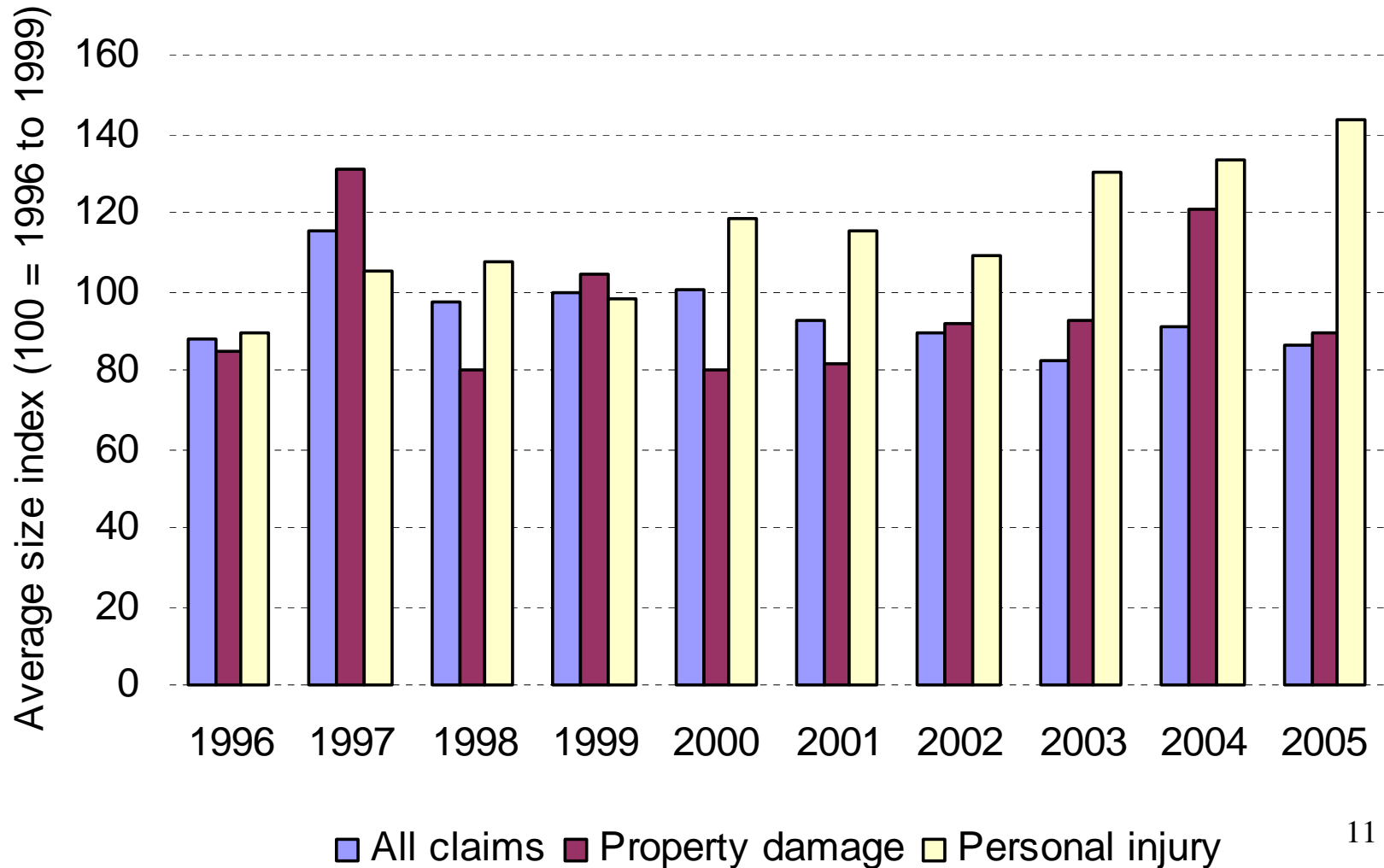
## SME claim frequency



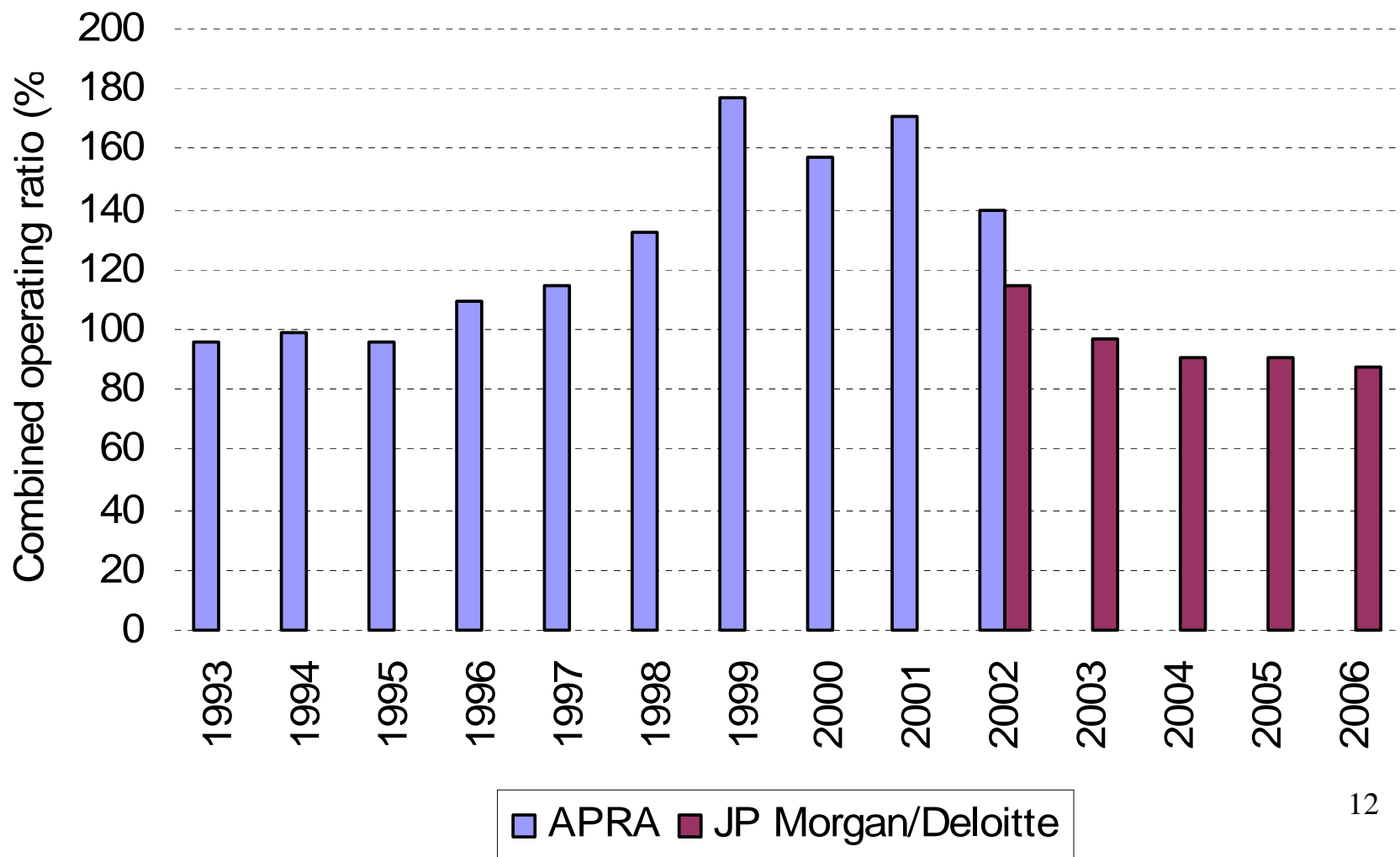
## SME average claim size (Personal Injury)



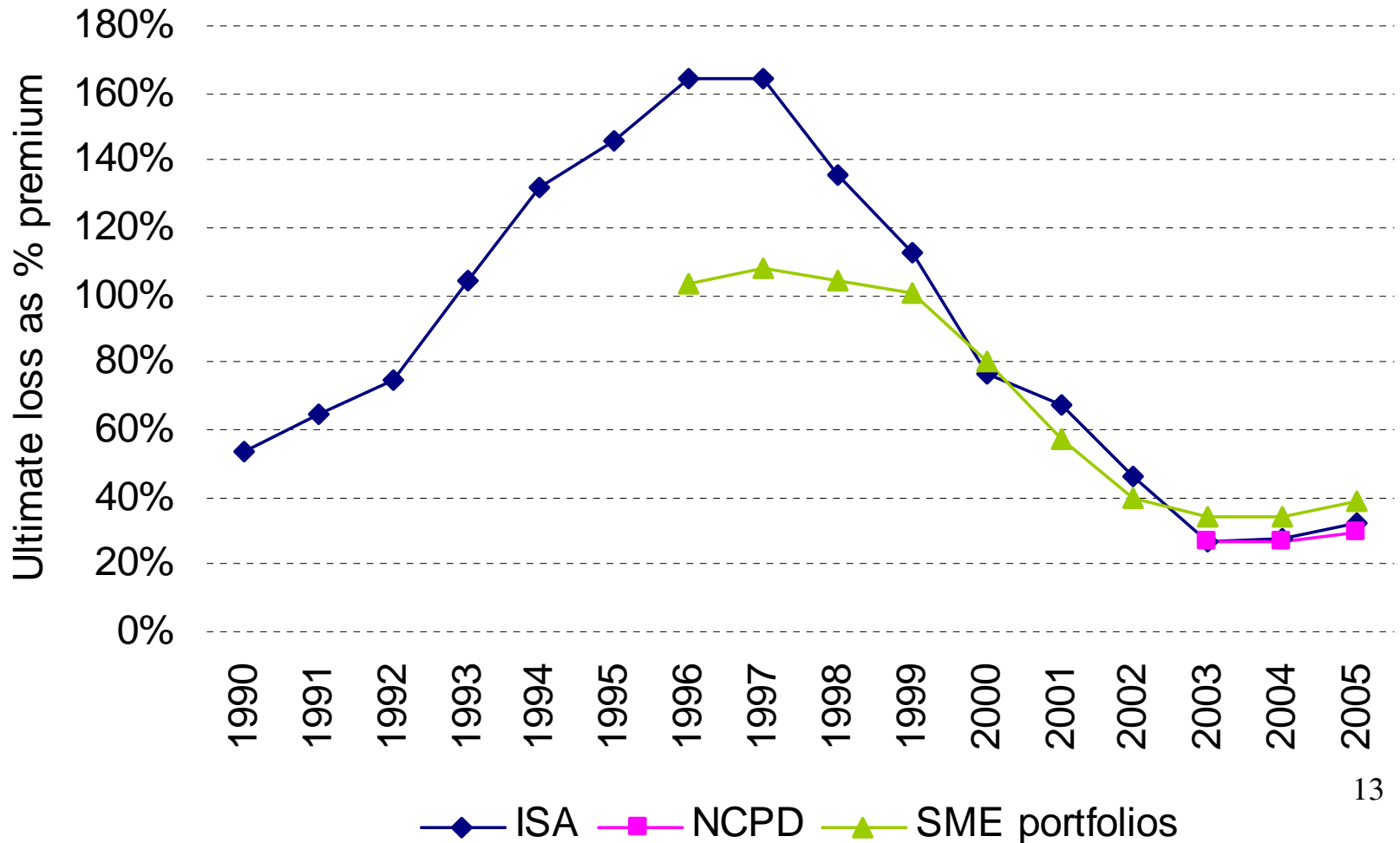
## SME average claim size all claims



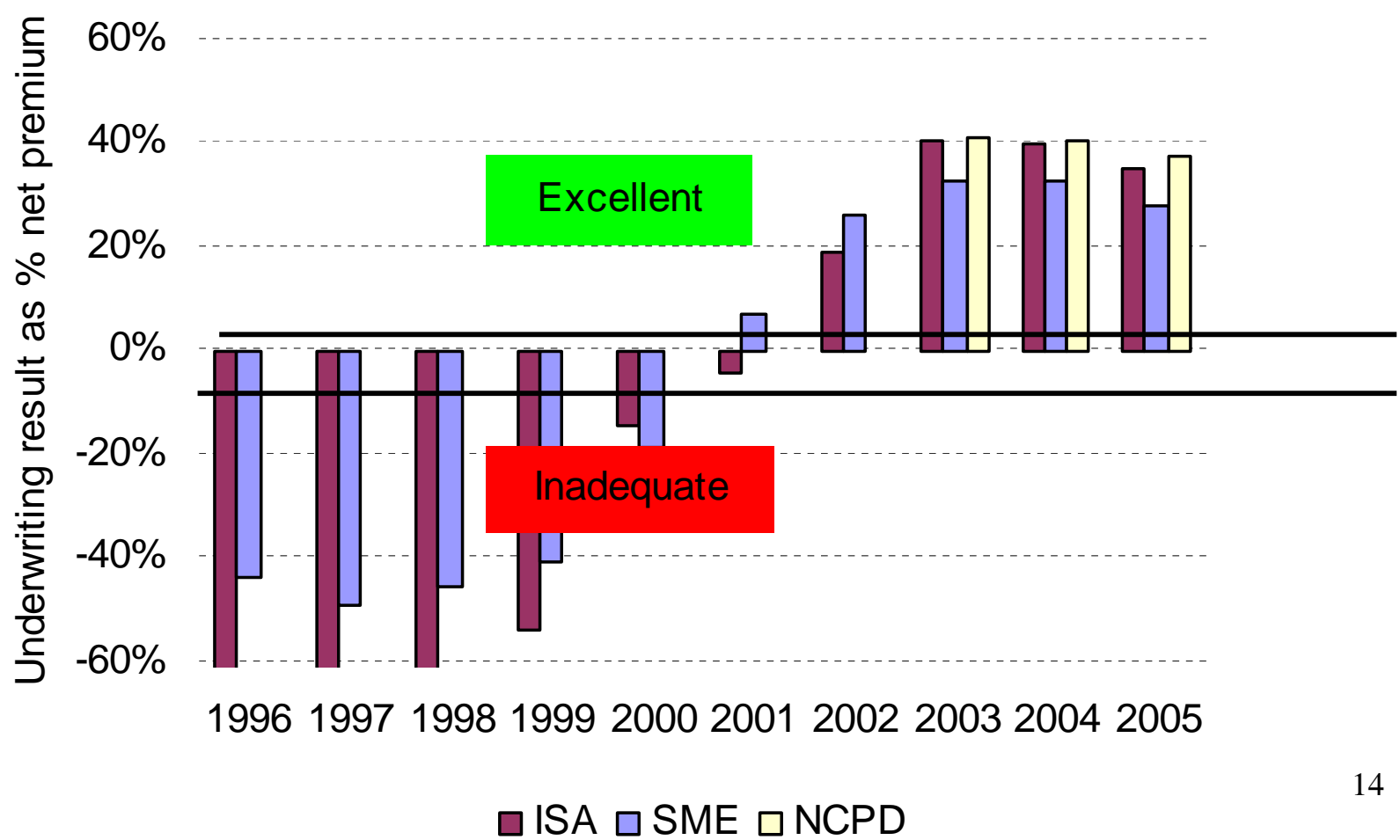
## “Industry” profits – accounting year



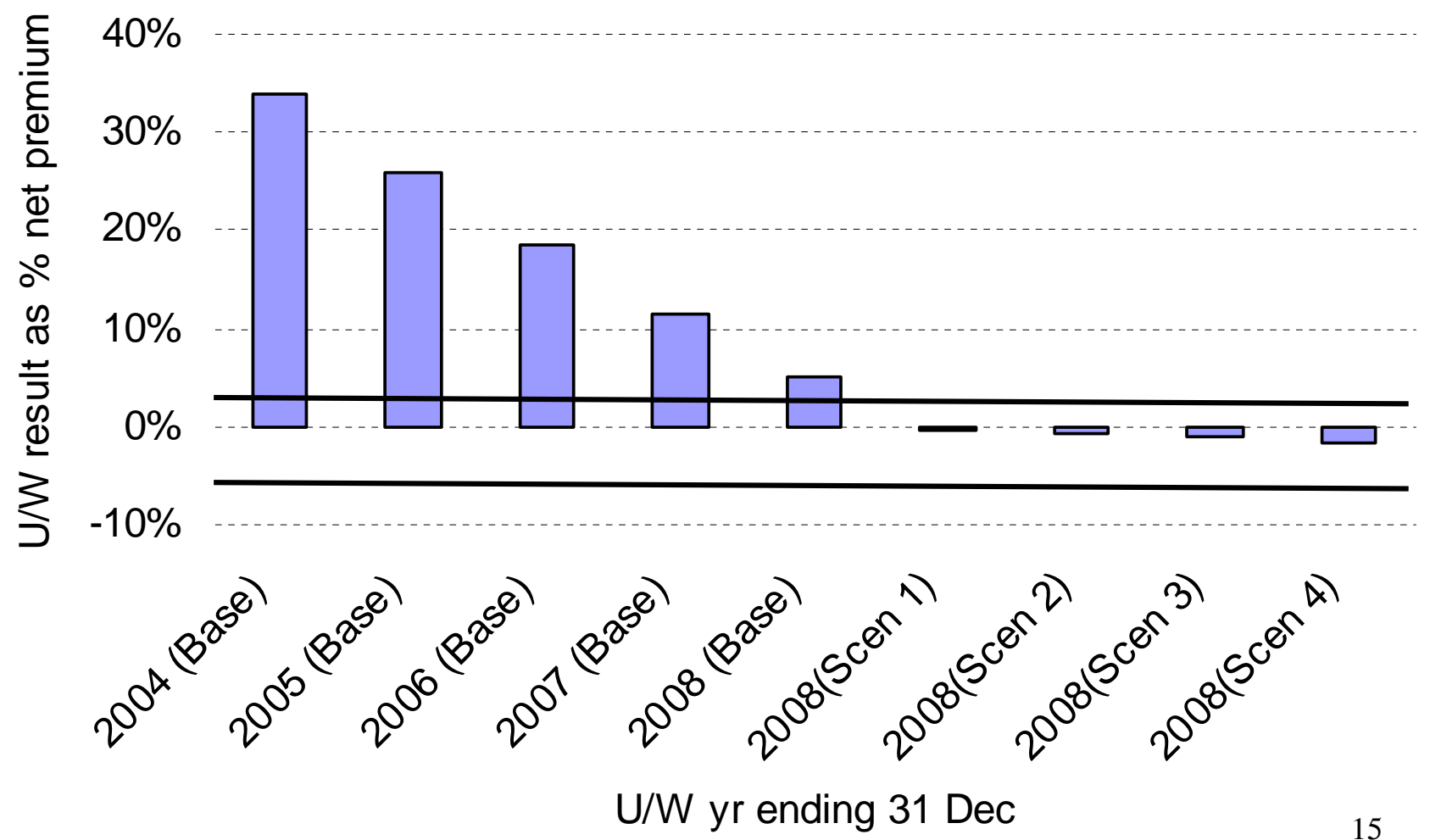
## “Industry” underwriting year loss ratios



## “Industry” underwriting year profit/loss



## Projected underwriting year profit/loss



## **UW YR vs Accounting Yr**

- Lag in recognising how profitable (or not) business is
- Geared impact on accounting year profit
- Price signals are “fuzzy”



## Issues for actuaries

- Dealing with the observed reduction in claim frequency
- Very mixed responses on impact on claim size
- Valuation bases do not deal explicitly with State/industry differences
- Gradual recognition of favourable post tort reform experience
- 33% giving full credibility and 66% partial credibility to post tort reform experience

## Conclusions

- Consumers – average 20% price reductions 2004 to 2006 with more to come
- Plaintiffs – large number of injured people no longer pursuing litigation
- Plaintiff lawyers
  - reforms unsoundly based
  - balance of reforms wrong
  - insurers not passing on benefits

## Conclusions

- Insurers
  - very healthy profits – underwriting standard, terms and conditions and tort reform
  - Profitability reducing as prices decrease
  - Still expect adequate returns by underwriting year 2008 but dangers exist
  - Different results for different insurers/portfolios
  - Accounting year results may give the wrong price signals

## Conclusions

- Actuaries
  - cautious about recognising favourable post tort reform experience
  - increased credibility given but still some way to go
  - if no nasty surprises may expect more prior year reserve releases