

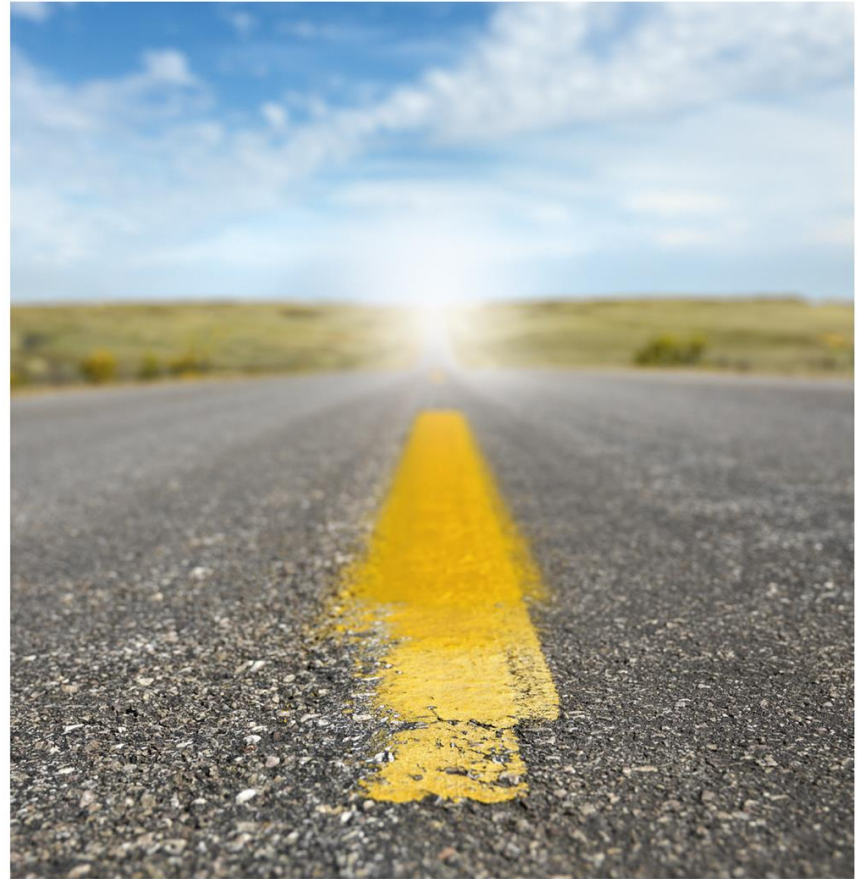
Injury Schemes Seminar

Road to Recovery



**Actuaries
Institute**

8-10 November 2015 • Hilton • Adelaide





Guardians of Sustainability

Role of the Regulator in Statutory Schemes

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This presentation has been prepared for the Actuaries Institute 2015 Injury Schemes Seminar.

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Guardians of Sustainability

- How can the regulator contribute to these ingredients for a sustainable scheme?



1.

The plan for this morning:

1. Who or what is the scheme regulator?
2. Regulator structure and funding
3. Dispute resolution
4. Stakeholders and service providers
5. Other regulator roles
6. Scheme culture

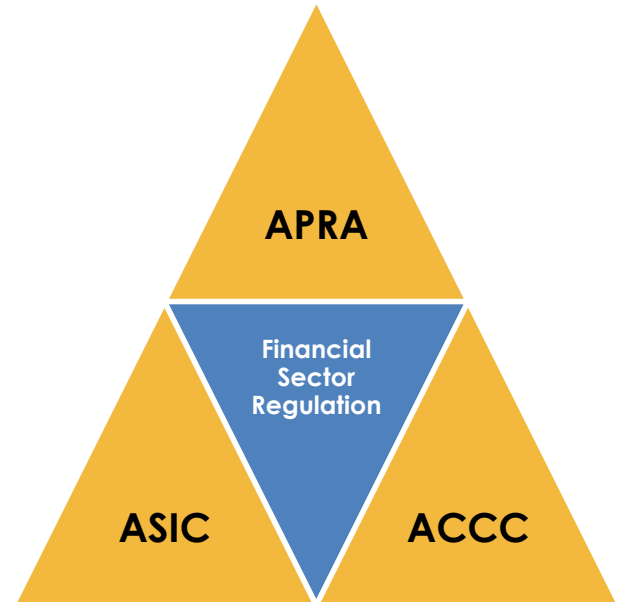
1.

What is a regulator?

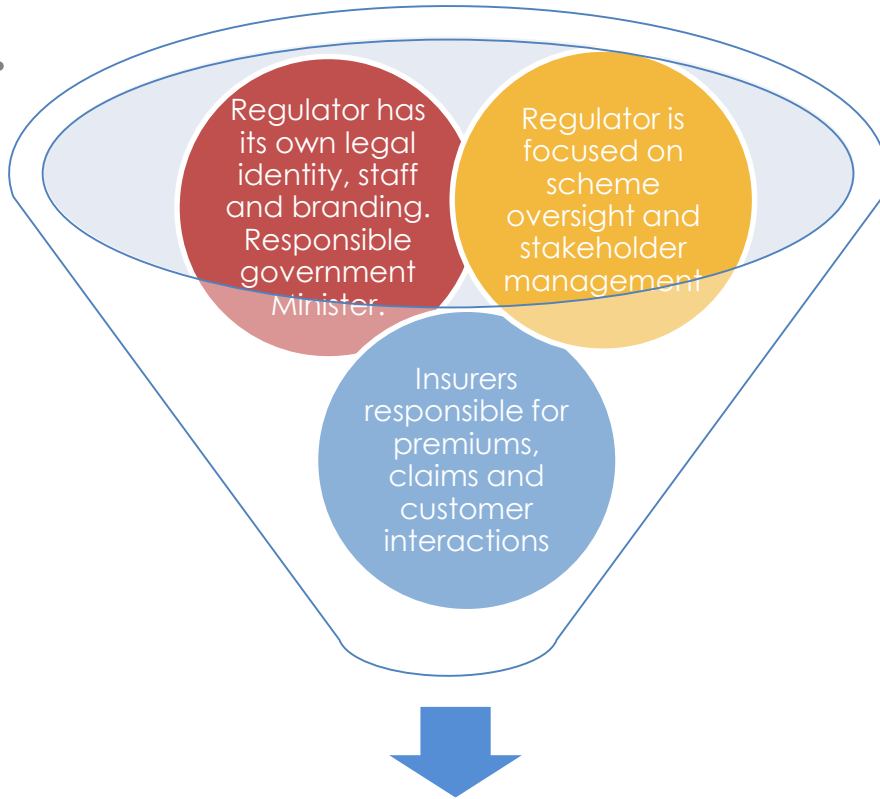
“A subsystem or independent device that determines and maintains the operating parameters of a system, usually within certain prescribed or preset limits.”

A starting place – the private sector

- In financial services there are three main regulators:
 - Prudential (APRA)
 - Market conduct (ASIC)
 - Competition (ACCC)
- How does/should the regulation of a statutory scheme differ?



2.



COMPETITIVE

Regulator Structure and Funding – Competitive Markets

2.

Regulator Structure and Funding – Monopoly Markets

- A separate legal entity or part of the insurer?

WORKERS

MOTOR

Separate

NSW

QLD

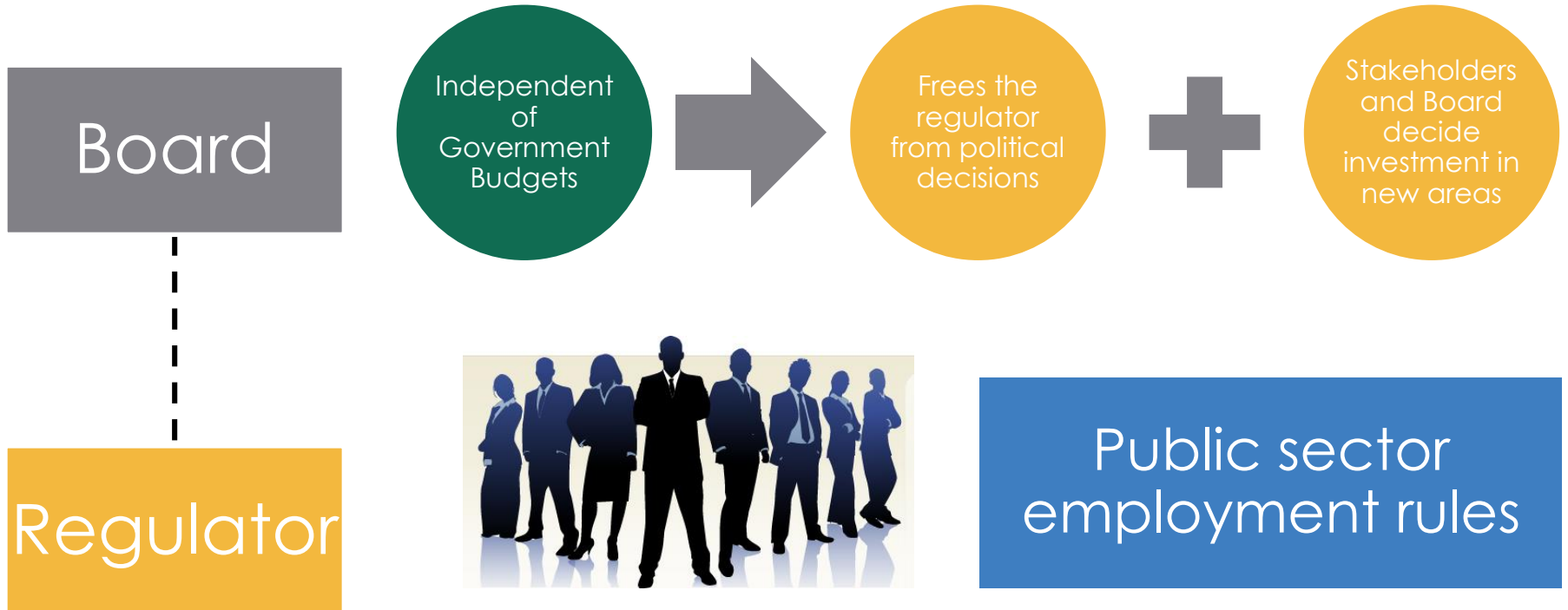
Combined

VIC

SA

None have separate
regulators

Governance, Funding and Staffing



3.

Dispute Resolution



Inexpensive



Optimum Structure: the regulator is responsible for the majority of disputes

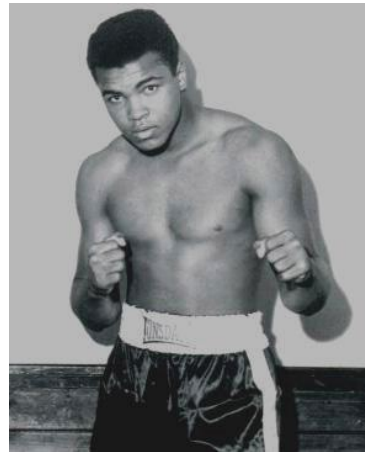
If a monopoly insurer has the regulator combined this optimum structure cannot work

3.

Dispute Resolution – Operational not Policy Function



VS



- Administrative process
 - More inquisitorial than adversarial
 - Procedural fairness and subject matter expertise
- Most motor and work accidents are not so complex as to need a court to decide.

Dispute Resolution – Organisation

- **Internal Review**
 - ‘As of right’ internal review by insurer
 - Regulator has oversight of insurer operations
- **External Review**
 - Tribunal with single registry
 - Medical and legal/factual arms
 - Intake Officer

3.

Dispute Resolution – Escalation



Exchange
of
information

Compulsory
Mediation

Tribunal
Hearing

Appeal

Escalation
to Court

Dispute Resolution – Escalation to Court

1. Important or novel issues that need to be resolved by the Courts

Regulator should not hesitate to support test cases

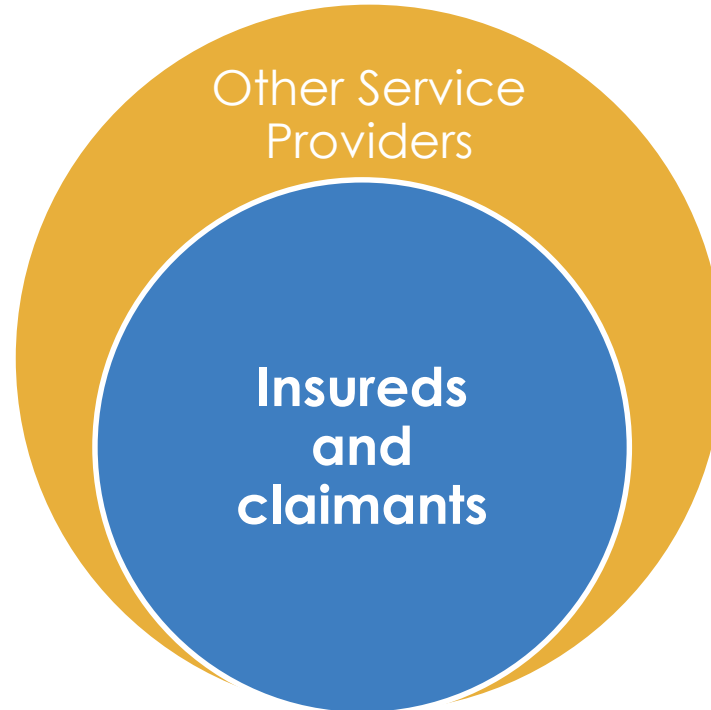
2. Some level of judicial review is required

Judicial review is a feature of administrative law, available on points of law

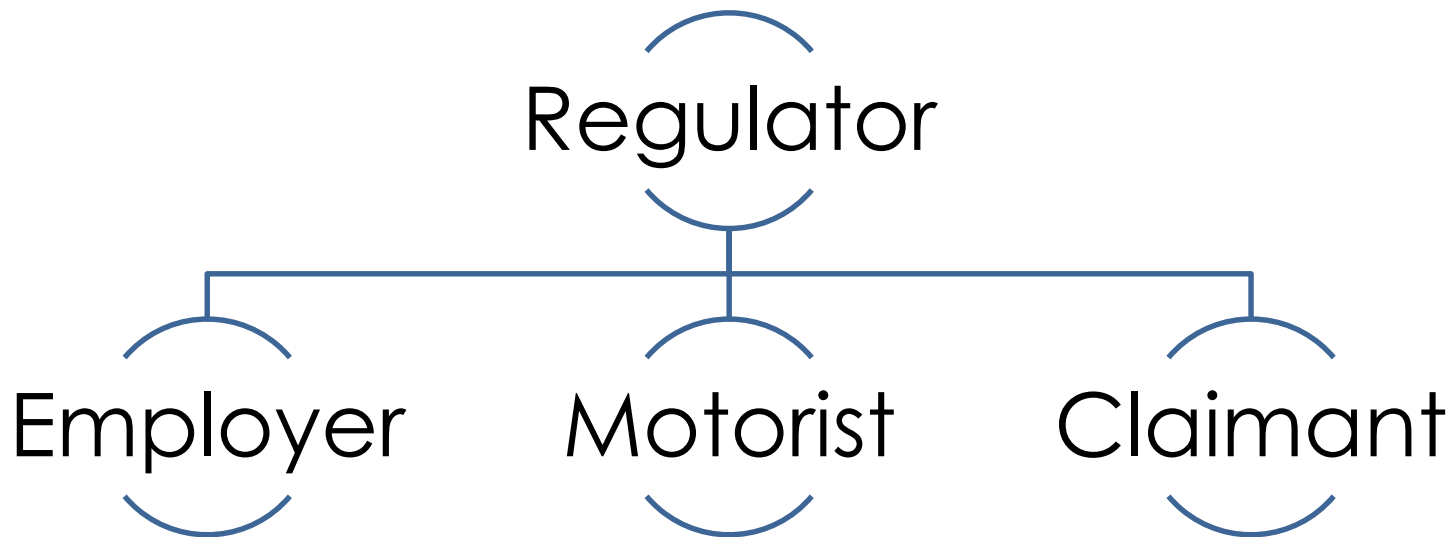
Measurement and Accountability

- A role for scheme regulator in regularly assessing:
 - Volumes
 - Timeframes
 - Costs
 - Resolution rates
- Does **not** translate into win/loss score keeping

Stakeholder Relationships – True Stakeholders



Stakeholder Relationships



Regulation of Service Providers



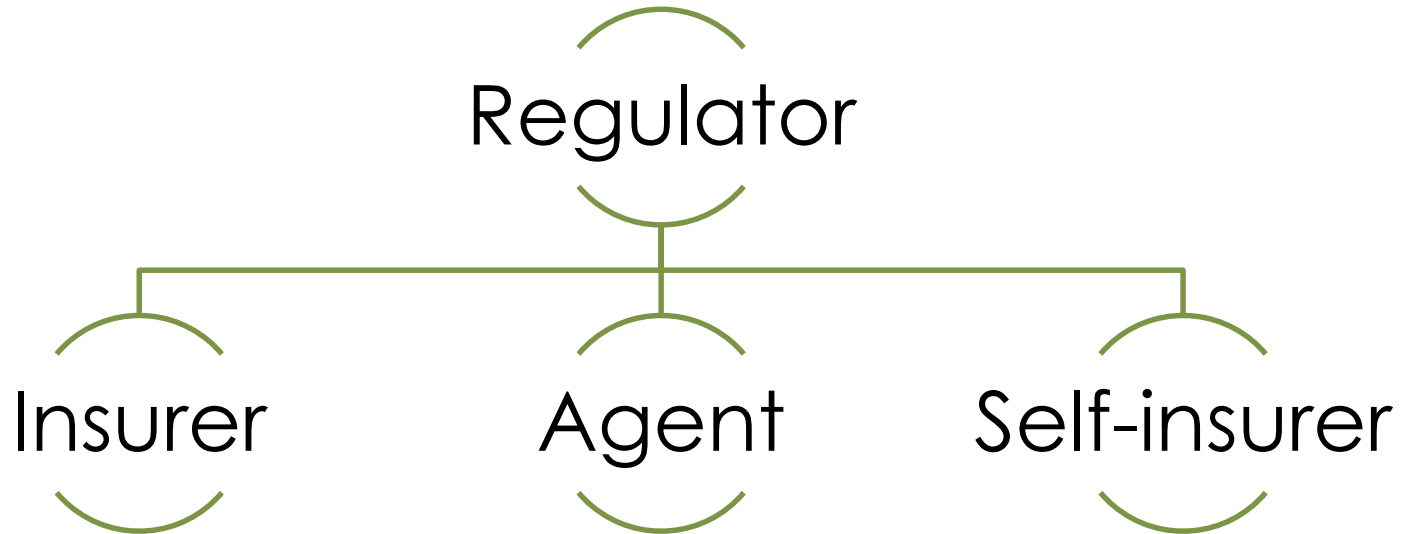
- Manifold disciplines
- **“Significance Test”** needs to be applied
 - The focus should be on businesses for whom work for the scheme comprises the majority of their business

Regulators toolkit

- Training
- Accreditation
- Practice guidelines
- Fee Regulation
- Practice-level monitoring
- Outlier responses
- Peer practice reviews
- Regulator review
- Enforcement – professional and legal



Insurer Relationships



5.

Other Roles

Government relations

Making and interpreting rules

Premium regulation

Prevention

Uninsured back-up

Central statistical data

Scheme Culture

You can't legislate for culture



How can culture be influenced



Can and should culture be measured