

# Injury Schemes Seminar

**Balancing Outcomes**

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## The Role of the Regulator in Injury Schemes

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# Agenda

- Why look at the role of the regulator?
- What did we do?
- What were our findings?
- Putting it all together
  - Regulator functions vs insurer functions
  - Key decisions
  - Concluding remarks



## Why look at the role of the regulator?

- We are not referring to what is in legislation but rather how schemes 'manage'
- Since the GFC more focus on regulation internationally and in Australia
- APRA has evolved as a regulator since 2001 from a 'light touch' to a pro active regulator
- Discussions with injury schemes/insurers
  - Has there been limited changes in the regulation and management of schemes over time
  - Very different approaches to both regulation and management of schemes
- The objective of this paper is to challenge how schemes are regulated and managed at a scheme level



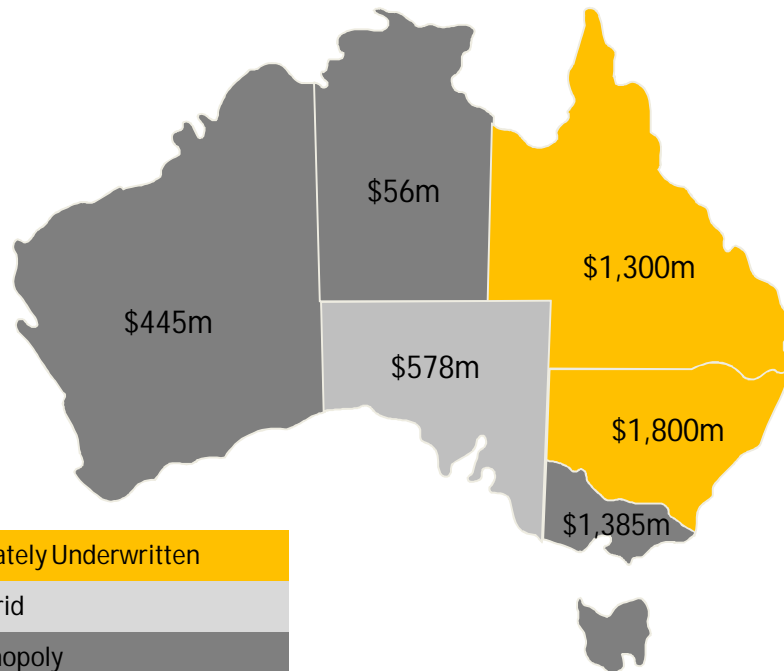
## Why look at the role of the regulator?

- Always been a focus on benefit design
  - But there are other important matters to have a successful scheme
- Schemes are subject to a public interest test or objectives
  - Need to balance the interests of claimants, premium payers and all service providers
- How schemes are managed and regulated at a scheme level is important
  - Has a large impact on achieving Government / scheme objectives
  - Has a major impact of the 'culture of the scheme'
    - How claimants and premium payers behave
    - How service providers including insurers behave

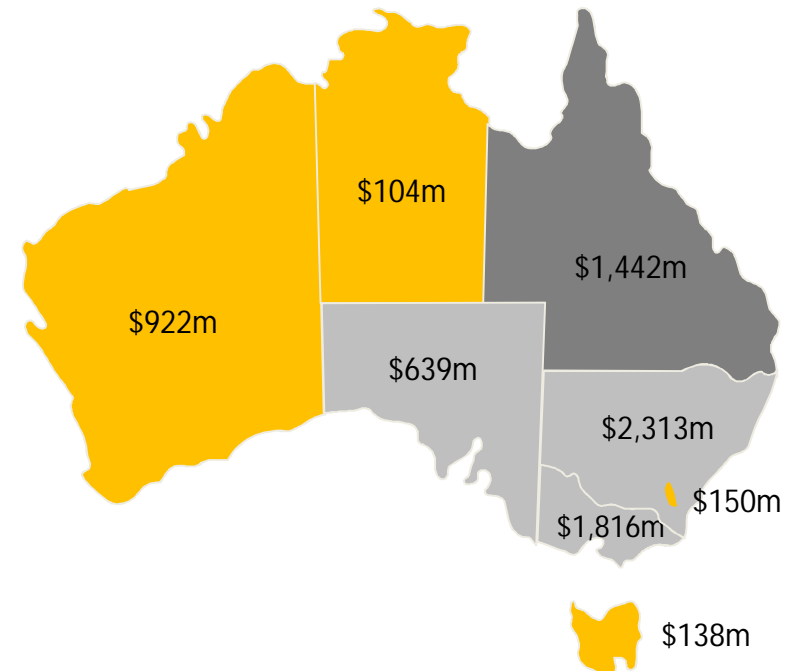


# Why look at the role of the regulator?

## CTP



## Workers Comp



Privately Underwritten

Hybrid

Monopoly



## Why look at the role of the regulator?

- Different scheme models have different issues to address
- Scheme objectives are not always black and white
  - Sometimes they are in conflict
- This paper is not about our views but having a debate
- What do we mean by regulation?
  - Not black-letter law regulation (e.g. largely just compliance focus)
  - But more how the scheme undertakes its legislative role and how they manage at a scheme level within legislative constraints
  - There is a spectrum of approaches



## What did we do?

Task	Topics
<p>Gathered insights based on a number of schemes we have worked with over many years</p>	<p>Topics covered</p> <ul style="list-style-type: none"> <li>• Approach to regulation</li> <li>• Internal people capabilities</li> <li>• Regulating medical and legal service providers</li> <li>• Relationships and culture</li> <li>• Innovation</li> </ul>
<p>Interviewed regulators as well as insurers/agents from each of the 3 models across CTP and Workers Compensation</p>	
<p>Structured information in the form of an investigation into the roles for a regulator vs an insurer or other service provider, and collated views on a number of themes that are relevant to the role of a regulator</p>	



## What were our findings?

- Approach to regulation
  - Influence of legislation
  - “Intrusive” vs “light-touch” regulation
  - “Reactive” vs “Proactive” management of schemes
  - Lack of clarity of the functions of a regulator vs insurer/manager
  - So why might a regulator be “light touch” and / or “reactive” in practice
    - Which is a better approach to achieve scheme objectives?
    - What is the right balance?
    - Approach may be dictated by what you have to work with





## What were our findings?

- Internal people capabilities
  - More of a focus on reactive “fix issues” rather than being pro-active
    - Historical
    - Lack of funding
  - Staff stability and experience influences regulatory approach
  - Required competencies
    - Stakeholder and change management
    - Engagement and influence
    - Strategy capability
    - Technical competence
    - Insurance experience?
  - Competition for quality staff especially with insurance experience



## What were our findings?

- Regulating medical, allied health and legal service providers
  - They have a significant impact on schemes in a range of areas and are not always straight forward to regulate
  - Variation in approach to regulating medical and allied health
    - Fee schedules
    - Over servicing / over billing – analytics to identify outliers
    - Influence - discussions with representatives of medical profession
  - Unable to regulate legal – scheme design issue



## What were our findings?

- Relationships and culture
  - Enforcement a ‘last resort’
  - ‘Light-touch”, compliance approach has contributed to an “Entitlements” culture
  - In the absence of consultation, service providers/stakeholders may perceive the actions of regulators as “randomness”
  - Static approach for a number of years can set a “behavioural expectation”
  - Tiresome to regulate with a big stick



## What were our findings?

- Innovation
  - Does the regulator have a role?
  - Provide an environment conducive to innovation
  - Facilitating an exchange of innovation can adversely impact the scheme
  - Internal innovation at the regulator
  - Structural impediment to innovation within a monopoly/hybrid



## Putting it all together

- Based on our findings and key themes from the interviews, the following Illustrations provide a systematic approach of how the functions of the regulator could be considered and consequently how they might be managed



## Regulator

## Insurer

Design

Administer

Supervise

Enforce

- Policy formation
- Government support
- Reforms co-ordination
- Legislative compliance/enforcement
- Premium design
- Market design
- Industry information
- Licencing and supervision
- Monitoring of scheme performance
- Service provider regulation
- Guidelines

- Dispute resolution
- Service provider management
- Quality assurance
- Data repository for scheme
- Nominal defendant
- IT system
- Fraud
- Management of service providers
- Analytic

- Pricing
- Underwriting
- Marketing
- Distribution
- Premium collection
- Policy management
- Claims management
- Capital management
- Reinsurance
- Finance / reporting
- Investment management
- Management of TPA

Deliver

Manage



## Key decisions

Reactive

Proactive

### Data

- Collect limited data and information (high-level only)
- Limited information published
- Collects comprehensive policy and claims (e.g.. Service level) data as well as other (e.g.. Industry) data
- De-identifies and pushes data to users



## Key decisions

Reactive

Proactive

### Analytics/monitoring

- Limited internal technical capability / capacity
- Limited analysis / monitoring / reporting of scheme / insurer / agent performance – KPIs not linked to outcomes
- Outsourced analytics / IP
- Reactive approach to managing issues in the scheme
- Limited accountability to scheme performance
- In-house expertise – actuarial, analytical, legal, medical
- Detailed innovative analytics
- Detailed KPIs/reporting with drilldown capability
- Full accountability to scheme performance
- Testing strategies
- Close relationship with claims staff
- Early identification of scheme issues/trends





## Key decisions

Reactive

Proactive

Service providers

- Limited price regulation
- Limited provider performance standards
- Limited monitoring of performance
- No investigations of over servicing/billing
- Allow insurers to manage competitively

- Benchmark providers and set fee levels
- Ensure compliance to standards
- Detailed monitoring of performance
- Regular contact with professional organisations
- Research strategies to better manage providers
- Panels
- Manage centrally



## Concluding remarks

Two key questions:

1. What functions should the Regulator perform?
  - In addition to the legislative requirements
  - There are potentially some aspects that are best addressed at a scheme level but there is a need to work with insurers and other service providers
  - Depends on the philosophy and constraints that the scheme operates within
  - Some schemes have two roles being a regulator and also an insurer



## Concluding remarks

Two key questions:

2. How do you want to undertake these functions?

- Proactive or reactive?
- Light touch or intrusive?
- Which approach works better?
- Approach needs to consider cost vs benefit
- Balancing the differing views of claimants vs premium payers and service providers is a significant challenge
- Service providers generally favour a more 'light touch' approach - we question if that approach is to the benefit of all stakeholders and service providers
- Should schemes consider being more transparent on the performance of the scheme and service providers?
- Clearly differentiating between regulatory and insurance roles is important



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