

Injury Schemes Seminar

Balancing Outcomes

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CONSIDERATIONS IN MOVING FROM A THIRD PARTY, FAULT BASED SCHEME TO A FIRST PARTY, NO-FAULT SCHEME

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Terminology

- At fault vs No fault
 - At fault: Only covers not at-fault parties
 - No fault: Covers both at-fault and not at-fault parties
- Third party vs First party
 - Third party: Claim is made on, and managed by, the insurer of (most) at-fault vehicle
 - First party: Claim is made on, and managed by, the insurer of the vehicle in which the injured party was travelling
- Not to be confused with defined benefits vs common law benefits

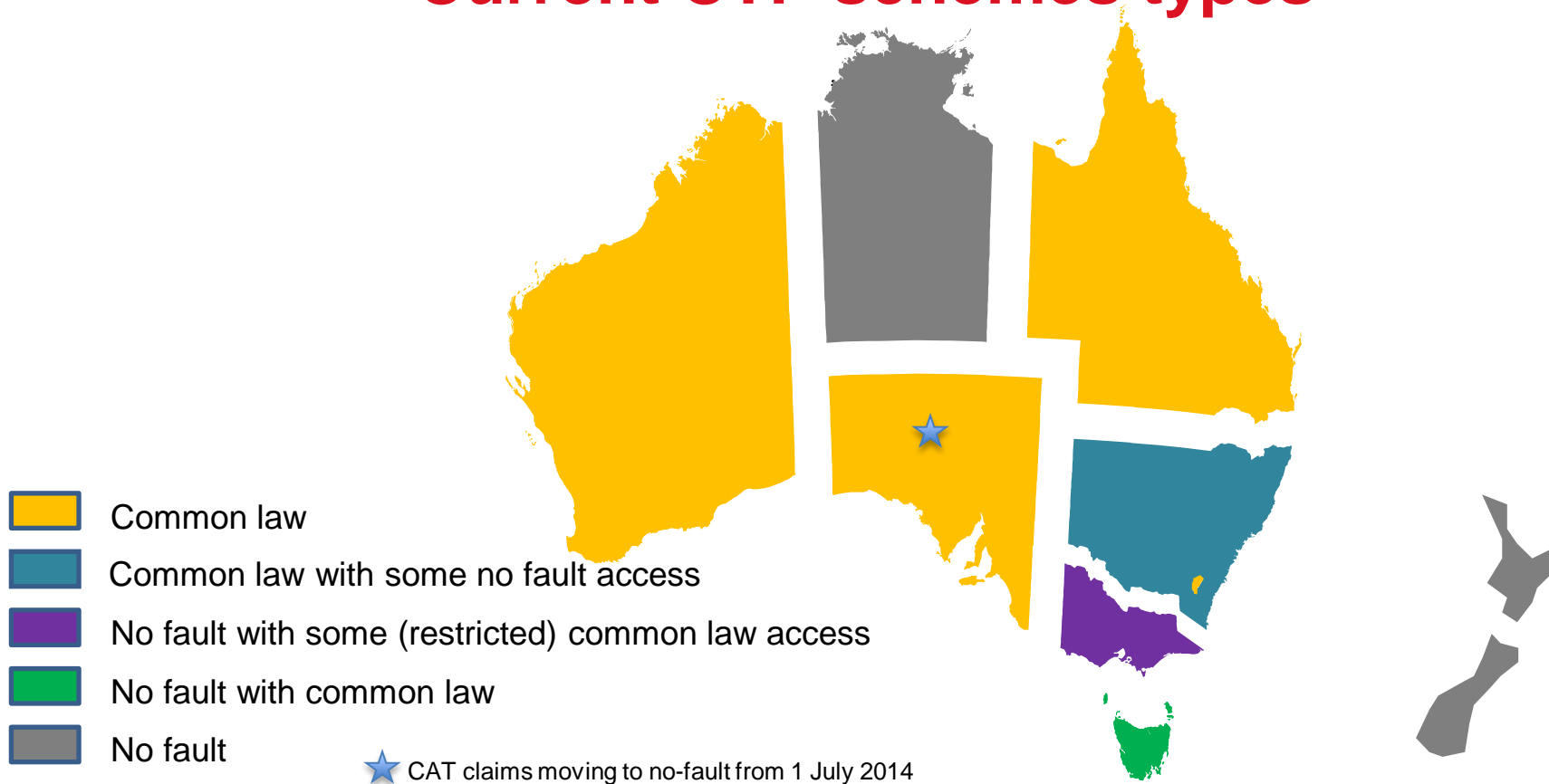







Why no-fault schemes?


- Various studies find no fault schemes are generally superior to at-fault scheme in a number of ways (but not all):
 - Provides more consistent coverage across injured parties
 - Provides more predictable benefits over the period receiving support
 - Focuses more on recovery outcomes by reducing reliance on an adversarial system
 - Likely to be more efficient/less costly
 - No worse at deterring risky behaviour than a fault based scheme
- Greater consideration of no-fault schemes over time



Current CTP schemes types



-  Common law
-  Common law with some no fault access
-  No fault with some (restricted) common law access
-  No fault with common law
-  No fault

 CAT claims moving to no-fault from 1 July 2014

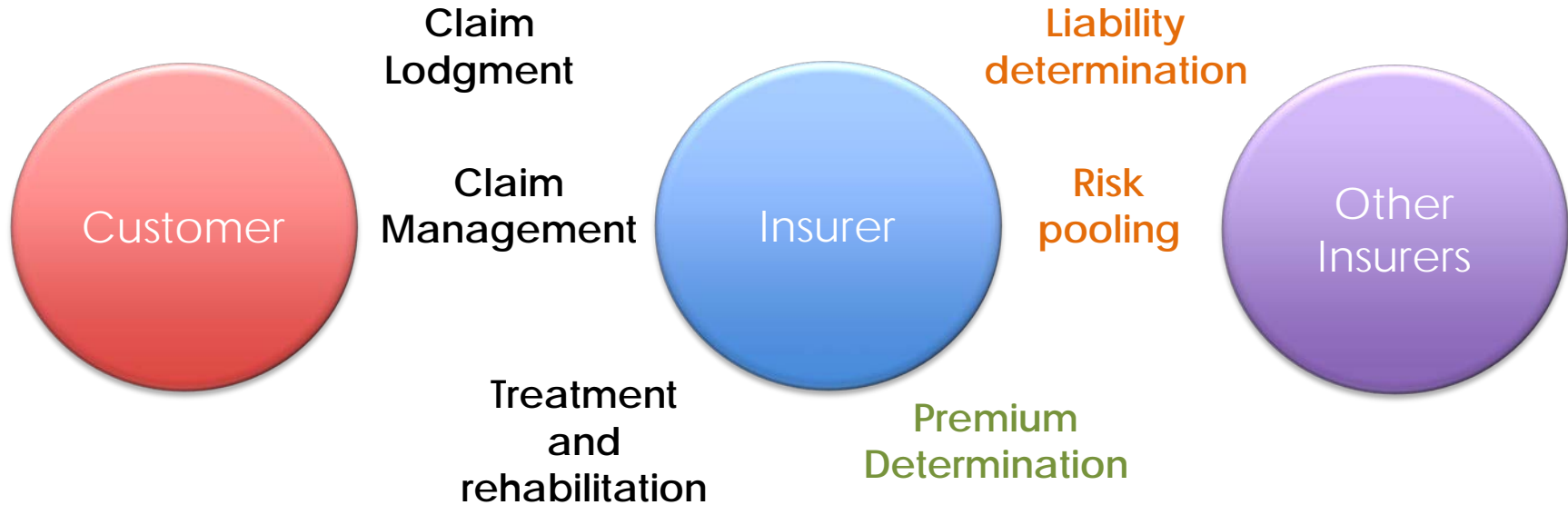


Challenges in a privately underwritten (first party, no-fault) scheme

- We acknowledge that no system is perfect
- Specifically not advocating for or against a privately underwritten scheme
- There are additional challenges involved in a private competitive market
 - Fault determination may still be required
 - Changes to risk drivers and underwriting
 - Extent of cross subsidisation between segments will impact on market dynamics



Types of Interaction





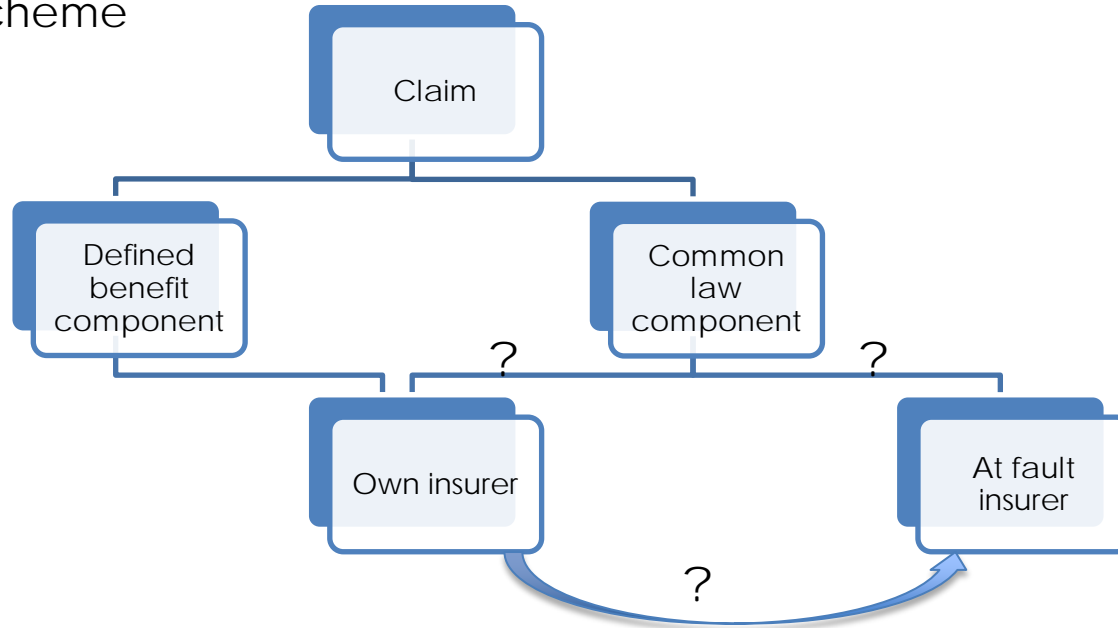
Claimant experience / relationship with insurer

Interaction	Third party	First Party
Lodgement	With insurer of (most) at fault vehicle – must seek to find the appropriate party	With own insurer regardless of fault, with whom you already have a direct customer relationship
Management	Limited incentive for managing insurer to increase service quality	Greater incentive for own insurer to increase service quality to retain business. Can be a brand differentiator.
Treatment and rehabilitation	Risk of delay in appropriate treatment as liability is established and debated	Greater incentive for own insurer to commence treatment ASAP where future claims costs can be minimised



Complications with common law

- First party, no-fault scheme lends itself more to a defined benefit structure
- We are not advocating for, against or extent of, access to common law
- There are complications with common law in a first party, no-fault privately underwritten scheme





Who should be liable for the cost?



Not-at-fault vehicle

At-fault vehicle

Third party

0 claims

5 (possibly 6) claims = not-at-fault driver
+ 4 passengers
(+ possibly at-fault driver)

First party

5 claims = not-at-fault driver
+ 4 passengers

1 claim = at-fault driver (assuming no-fault benefits)



Who bears the cost?

- Continuum of options available to allocate costs between insurers involved:



- Issues to consider and balance when choosing the sharing mechanism
 - Which results in the best health outcomes for claimants?
 - Which enables insurers to appropriately underwrite risks and encourage innovation?
 - Which option is sustainable, affordable, encourages competition and minimises friction (inefficiencies)?



Premium system (1)

- Scheme philosophy - need to determine:
 - What is “affordable” and hence what level of cross subsidisation is necessary
 - Where on the continuum between community rating and pure risk rating should the system inhabit (equity)
- Can split into two parts:
 - Front end – what premiums are paid by consumers
 - Back end – what monies are ultimately received by insurers



Premium system (2)

- In moving to a first party, no-fault scheme, need to rethink
 - Premium relativities – shift in dynamic between segments, eg
 - Country
 - Motorcycles
 - Trucks
 - Buses
 - (Acceptable) rating factors
 - Number of seats in vehicle?
- The above may have flow-on impacts on affordability which can be mitigated through mechanisms like capping and risk pooling



Risk pooling options

- **Assigned risk pool** or assigned market share of poor risk – eligible poor risks assigned to a specially set up vehicle or are allocated to an insurer based on insurers' market share. Note this affects consumers directly (ie front end adjustment)
- **Claim equalisation** - Eligible poor risks claims costs are shared between insurers in proportion to market share, irrespective of volume of poor risks written or claims management efficiency (ie back end adjustment)
- **Risk Equalisation** - Subsidies are redistributed between insurers, reflective of the insurer's weight in poor risks (ie back end adjustment)



In summary...

- CTP injury schemes are investigating first party, no-fault basis
 - Policy/social advantages
- Considerations are all heavily interlinked
- Need to achieve balance between
 - Impact on consumer
 - Impact on insurers
 - Aims of the regulator/social policy
- Mechanisms available to manage those unintended market dynamics
- It is feasible in a privately underwritten market

