

21 May 2021

Submitted via Webform

To whom it may concern

REGULATOR PERFORMANCE GUIDE: CONSULTATION DRAFT

The Insurance Council of Australia (ICA) welcomes the opportunity to comment on the Department of Prime Minister and Cabinet (DPMC) *Regulator Performance Guide Consultation Draft* (the Draft Guide).

DPMC has indicated that the Draft Guide responds to stakeholder feedback that the existing Framework is “not consistently driving best practice performance or producing transparent and meaningful performance information”.¹ As such, the Draft Guide contemplates a “flexible and principles-based approach” with “a greater focus on outcomes, an emphasis on proportionate risk-based approach and genuine stakeholder collaboration”.² The ICA has previously provided input into the KPI process of financial sector regulators and supports DPMC’s view that scope for improvement exists.

The Draft Guide offers the following principles of regulator best practice:

- **Continuous improvement and building trust:** regulators adopt a whole-of-system perspective, continuously improving their performance, capability and culture, to build trust and confidence in Australia’s regulatory settings.
- **Risk-based and data-driven:** regulators maintain essential safeguards, using data and digital technology to manage risks proportionately to minimise regulatory burden and to support those they regulate to comply and grow.
- **Collaboration and engagement:** regulators are transparent and responsive, implementing regulations in a modern and collaborative way.

As a general comment, the ICA supports the move to an outcomes-focused and principles-based approach. The ICA also acknowledges and supports the Draft Guide’s added focus on regulator conduct, culture and capability, which is an important element in supporting a regulator’s ability to effectively achieve its objective. Some brief comments on the specific principles are provided below.

Principle 1: Continuous Improvement and Building Trust

The ICA believes this principle could be enhanced by greater emphasis on competition. The Productivity Commission (PC) inquiry, *Competition in the Australian Financial System* drew attention to the importance of economic competition in driving consumer outcomes, noting the need for a greater emphasis in this area:³

¹ DPMC, *Draft Regulator Performance Guide Consultation Supporting Material*, ([link](#))

² DPMC, *Draft Regulator Performance Guide Consultation Supporting Material*, ([link](#))

³ Productivity Commission, *Competition in the Australian Financial System*, ([link](#)), p516



Insurance Council
of Australia

- *Although regulators are required to consider competition issues in their decisions, the weight of evidence shows that Australia's policy and regulatory settings, as well as the regulatory culture, focus more on stability than on improving competition in the financial system.*

In articulating the benefits of competition in financial services, the PC stated: ⁴

- *Competition has been demonstrated repeatedly, in both Australian and abroad, to generate strong incentives for providers of services and goods to act efficiently and, at the same time seek to meet the constantly-changing needs of consumers. At their best, competitive markets adequately meet society's needs with little government intervention.*

The ICA therefore suggests that fostering competitive markets (noting that this will depend on the precise regulatory function) should be considered a key function of the proposed “whole-of-system” perspective. This should include recognition that a key component of competition is product differentiation. Insurers compete on a variety of measures, including price, contractual terms, customer support, service models among others. Tailored offerings for specific markets support consumers choice, allowing individuals to choose products that best meet their needs.

For example, an insurer may lower the cost of their product by offering a streamlined customer experience such as online support. In turn, this may prompt market response from a competitor to match the new offering or to emphasise other features of their own product. Overall, such competitive trade-offs allow the iterative development of products that better meet customer needs.

Principle 2: Risk-Based and Data-Driven

Principle 2 recognises that data and digital technology can be leveraged to ensure that regulators better understand and manage risks. This will support achieving regulatory objectives in a way that imposes the least cost on those that are regulated.

The ICA supports this Principle, noting that a data-driven approach requires regulators to develop the internal capacity to effectively collect, store and interpret data. Furthermore, as industry is a key source of regulator data, this Principle draws attention to the need for deeper consideration of the framework of private-public data sharing.

By way of illustration, the insurance industry provides regulators with information on a range of matters, on both a non-compulsory and compulsory basis (such as via statutory notices). While many of these requests are longstanding, others are made on a one-off basis or for a specific purpose. Different regulators sometimes make requests for the same or similar data and there is not always consistency in timeframes. Data requires time and effort to extract and collate, and our members strive to respond to data requests in a timely manner which may be against the context of a disaster event which can impact on how quickly insurers are able to respond. Insurers will not necessarily store data in the format requested by regulators, meaning that manual work may be required.

The ICA is currently working with ASIC and APRA to investigate a common data framework along with data catalogue and definitions for the general insurance industry. The ICA acknowledges the productive

⁴ Productivity Commission, *Competition in the Australian Financial System*, ([link](#)), p68

and collaborative work that is underway. If there was a need, such a framework could evolve to include other regulators under the Council of Financial Regulators.

A common data framework would allow for more effective oversight of data requests and provision, bringing several benefits. It would deliver greater transparency and allow consolidation of requests, allowing both sides to better tailor requests and fostering a greater regulator understanding of the types of industry data available. Consolidated requests would reduce the burden on industry and help foster best-practice data use by regulators. It would also allow an assessment as to whether there is a need to make a data request or if the purpose can be met out of existing data.

Principle 3: Collaboration and Engagement

The ICA supports this Principle, noting that transparency and responsiveness are critical to effective regulatory performance in complex systems.

One potential enhancement is to highlight the importance of internal consistency within regulators in the exercise of their decision-making and regulation-making powers, as well as their engagement with industry and the public. The public, as well as regulated entities, are best served if all branches of a particular regulator approach these tasks consistently. The ICA suggests that DPMC consider how this could best be captured.

Similarly, the ICA notes that the insurance industry (and financial services in general) is currently facing a broad array of inquiries and consultations from multiple sources – Parliamentary, department and regulatory. To support effective collaboration and engagement on consultations, regulators should ensure they turn their minds to possible policy interactions with consultations from other regulators (or parts of the same regulator).

Finally, the ICA suggests there is sometimes scope for more effective collaboration on regulatory change implementation. Amendments to regulatory requirements will frequently require significant implementation work on the part of insurers – such as staff training, IT development and other systems change. Close engagement with industry would help regulators to better understand implementation challenges, and thereby ensure that planning and resources exist to support realistic lead times and enhance the overall effectiveness of regulatory change.

The ICA would be happy to work with Government, particularly on the design and implementation of a common data framework. Please contact Aparna Reddy, General Manager, Policy – Regulatory Affairs (areddy@insurancecouncil.com.au, 02 9253 5176) if you have any questions in relation to our response.

Yours sincerely



Andrew Hall
Executive Director & CEO