



cutting through complexity™

Number crunching: estimating trends in Business Interruption claims

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Steve Thompson, KPMG

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Agenda

- **Introduction- Jonathan Samuelson**
- **The policy**
- **Data**
- **Introduction- Steve Thompson**
- **Evidence**
- **Litigation v insurance claims**
- **Actuaries, accountants and astrologers**
- **Wrap up**

Jonathan Samuelson

- Partner and Head of Business Interruption, Harris Balcombe LLP
- Chartered Accountant (Ernst & Young) then film and TV industry
- Loss assessing (claimant only). Specialising in large and/or complex business interruption claims and product recalls for the last 20 years
- Extensive experience of working with Forensic Accountants acting both for insurers and for claimants

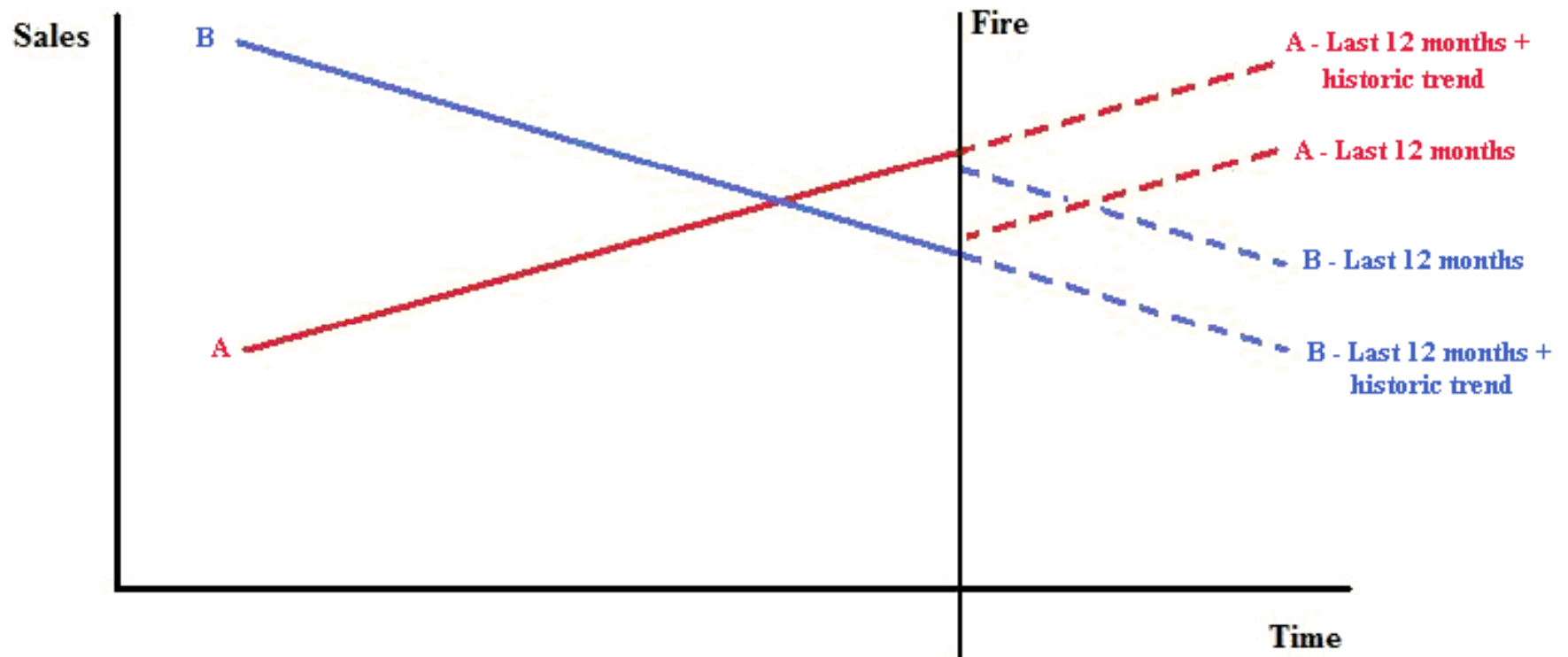
The policy

The “other circumstances” clause in defining the Rate of Gross Profit and Standard Turnover

*“... to which [Rate of Gross Profit and Turnover before the damage] such adjustment shall be made as may be necessary to provide for the trend of the business and for variations in or special circumstances affecting the business either before or after the Damage or which would have affected the business had the damage not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practical the results which **BUT FOR** the Damage would have been obtained during the relative period after the Damage.”*

Data

- Historic performance

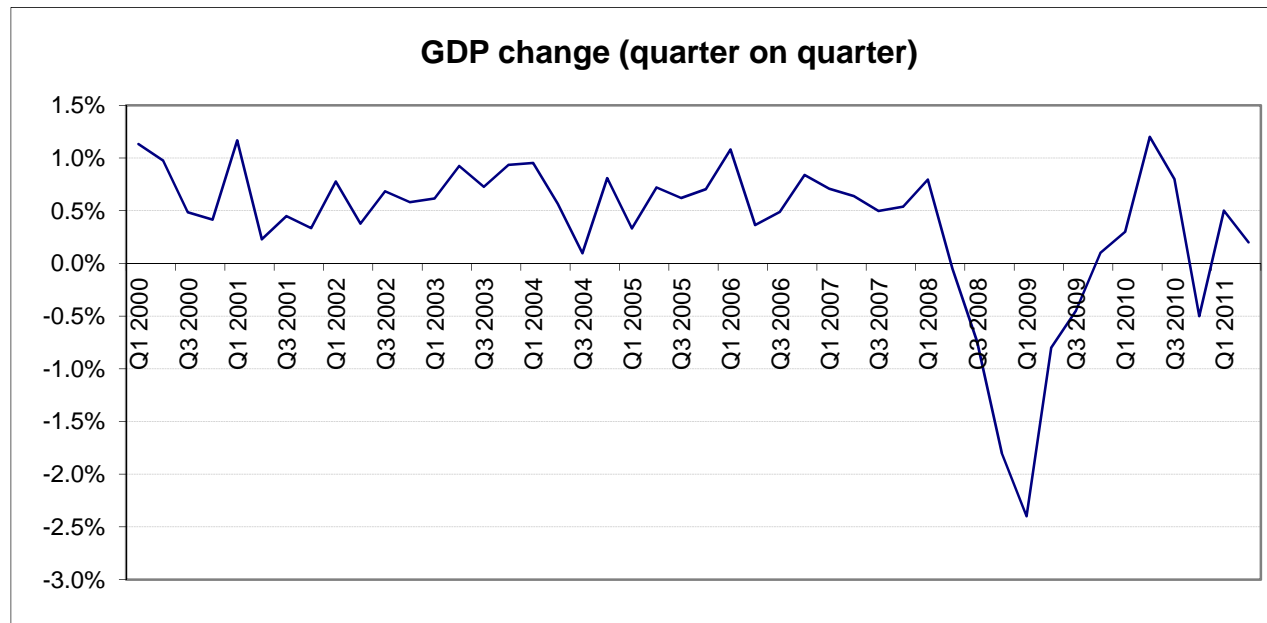


Data (continued)

- Internal developments
 - New customers
 - New products
 - New locations
 - Lost customers
 - Changes in key personnel

Data (continued)

- External developments
 - Economic conditions



- Changes in competition
- Government action
- Technology

Data (continued)

- Comparable businesses
 - Within the same group
 - Within the same sector
- Comparable products
 - Within the same group
 - Within the same sector
- Forecasts/budgets
 - Purpose
 - Accuracy
- Weather/seasonality
- Press searches
- Etc etc!

Steve Thompson

- Head of Dispute Advisory Services, KPMG's Midlands Region
- Audit and accountancy, then specialising in forensic accounting
- Particular specialism in insurance claims and insurance related disputes
 - Sun Valley, Boots, United Biscuits, Synergy Health
- Advise policy holders and insurers
- Expert witness background

Evidence

- Quality
 - Authority
 - Independence
 - Timeliness
 - Benchmarking
- Witness statements
- Support from customers and suppliers
- Joint visits to competitors and trade associations

Litigation v insurance claims

- Litigation

- Claimant v Defendant
- Each advised by lawyers and forensic accountants as expert witnesses
- Expert witnesses owe an overriding duty to the Court
- Exchange of experts' reports, either sequentially or simultaneously
- Disclosure – by Claimant and Defendant. Favourable and adverse
- Civil Procedure Rules 1998 and the importance of proportionality

- Insurance claims

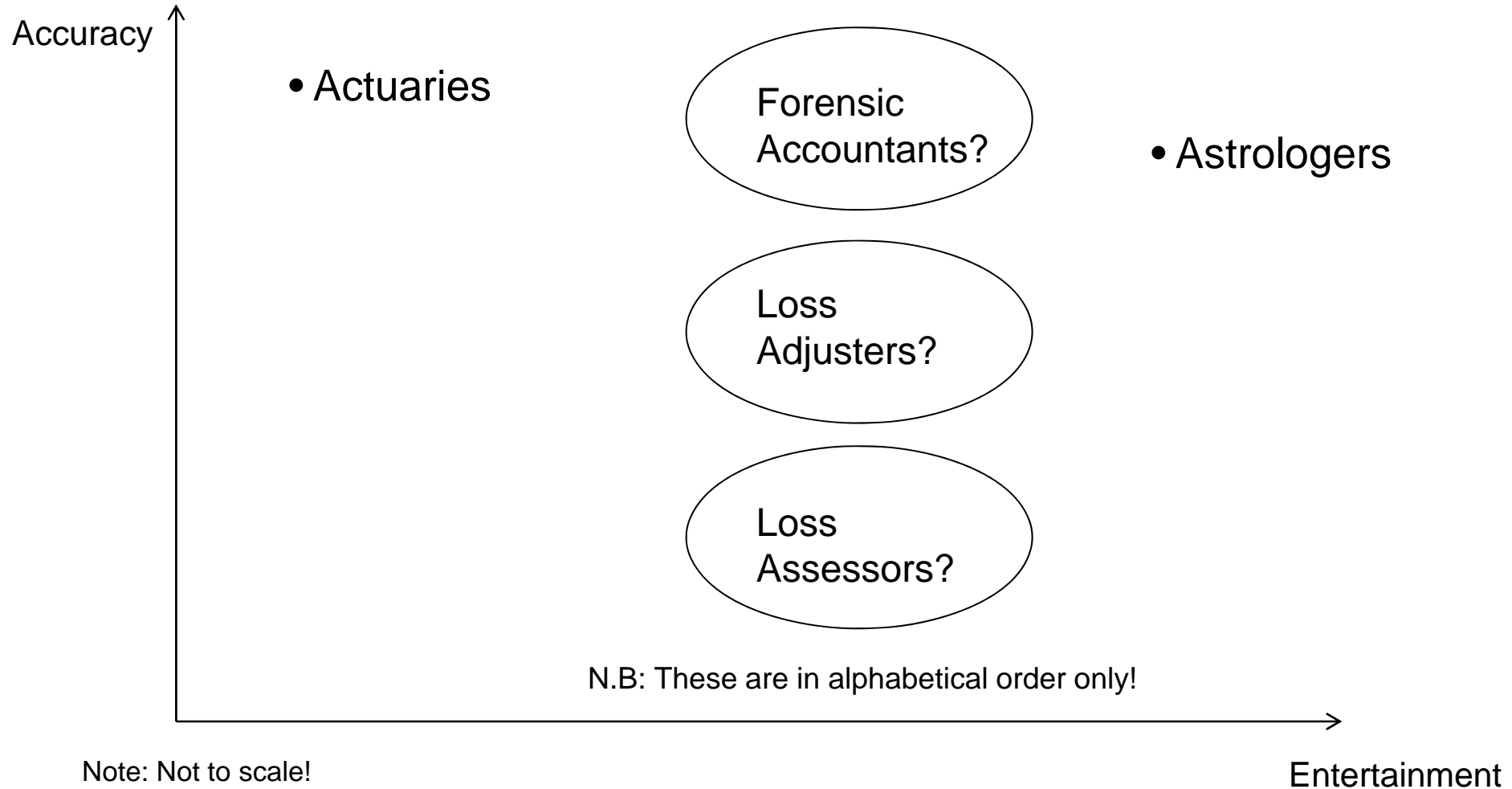
- Contract between policyholders and insurers - utmost good faith
- Insurers appoint loss adjusters and sometimes forensic accountants
- Policyholders sometimes appoint loss assessors and/or forensic accountants, but often appoint neither
- Respective responsibilities of advisers
- Reporting and disclosure

Actuaries, accountants and astrologers

“.... as a method of providing a reliable guide [to future events], the predictions of an actuary would be only a little more likely to be accurate (and would almost certainly be less entertaining) than those of an astrologer.”

Lord Justice Oliver, Court of Appeal, *Auty v National Coal Board*, 1984

Actuaries, accountants and astrologers (continued)



Wrap up

- *“Post hoc ergo propter hoc”*
 - After it therefore because of it
- *“It is impossible, so why bother?”*
- The aims are to:
 - express an opinion supported by evidence
 - ensure satisfactory performance of a contract
- Balance of probabilities

Presenters' contact details

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