100th EPISODE

Regulation Matters: a CLEAR conversation

100 Episodes of Insight: Looking Back, Adapting for the Future

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Line Dempsey: Welcome to Regulation Matters: a CLEAR conversation. I'm your host, Line Dempsey. And today's episode is a special one! This is episode 100, and for this milestone, we're returning to a question that continues to resonate with our listeners. In fact, it's the focus of our most downloaded episode to date; that's episode number 25, 'What It Means to be a Good Regulator.' A lot has changed since we first asked that question back in January 2020. The pace of regulation has accelerated; public expectations have shifted; technology, transparency, and trust are being tested in new ways. And yet, the core responsibility of regulation—to serve the public interest—remains the same.

So, for episode 100, we're revisiting that question, what does it mean to be a good regulator, with a group of voices who bring different perspectives on regulation's past, present, and future. Deanna Williams is with us again to reflect on the question from our previous conversation. We're also joined by Paul Byrne, Mike Carpenter, Sara Chambers, Alan Clamp, and Shilo Tooze. Together, these people and voices reflect not just where regulation has been, but where it's headed next. So, thank you all for joining me today.

Guests: Thanks for having us! Thanks for the opportunity.

Line: Absolutely. So, let me start this with Paul. So, when you think back to early in your career, how did you define a good regulator, and what, if anything, has changed in how you answer that question today?

Paul Byrne: I think the challenge of today is that we are working in a much more different environment where you're seeing a lot of global change and challenges, where a number of years ago, or earlier in my career, regulators were about consistency. It was about bringing a steadiness to the profession, a steadiness to the workforce. But now we're managing much more complexity than we would have 5 or 10 years ago. And there is a shift in the new rules-based order, and it's how we adapt to that. And that's not just on a national level; that's on an international level.

So, today, as regulators, it's about managing that acceleration. There's the speed of technological change, particularly in relation to AI and data-driven systems, and that increased pressure is compressing the policy cycle. So by the time our consultation closes, the technology or the policy position may have evolved. At the same time, public expectations have substantially shifted. Stakeholders expect real-time responsiveness from regulators, where traditionally we take multi-year reform cycles. So, we're facing a challenge where it's the courage to say no when pressure mounts, yet the courage to innovate when that stagnation sometimes feels safer. And finally, regulators are operating in a much more interconnected global environment, where a decision in one jurisdiction can have significant global ripples, sometimes even within hours. So, the pressure we're facing now is not just about volume; it's about philosophy. And the challenge now we're facing as regulators is how we're building systems that are agile, but without becoming unstable.

Line: Yeah, thanks, Paul. And Alan, I couldn't help but notice you nodding your head during this. Alan, can you give me some of your thoughts there?

Alan Clamp: Yeah, well, I suppose the first thing I'd say is that the beginning of my career in regulation was in the last century, so that feels like a long time ago. But looking back, similar ideas to Paul, really. I think I started with a fairly narrow view of regulation. Set standards, check compliance. But over time, this has definitely got much broader. Paul used the word complex, and I would agree with that. I try to do what I do based on the core principles of good regulation that we're all familiar with, about being proportionate, consistent, and so on. But also emphasizing the importance of engagement more, agility, Paul talked about pace, same sort of principle, and a focus on the outcomes of regulation. So now, compared with back then, I'm thinking more about being adaptive, forward-looking and preventative wherever I can, and definitely working much more in collaboration with others. So, now I suppose I see regulators not just as enforcers of rules, but more stewards of systems, and with that comes greater expectations of regulators.

Line: So, Mike, how about you, looking back on how it started and how it ended for you? Or not ended, but you know what I mean.

Mike Carpenter: [laughing] Unless you know something I don't. I probably started my career at a similar time to Alan. And he talked about how back in the 1990s, the model of regulation was more straightforward. It was setting standards, and it was managing compliance with those standards, and those things are still important, but the world, and I think regulation with it, has become more complex and sophisticated. So, we still have to set standards for acceptable practice. We still have to manage complaints and deal with the bad apples, but the way the professions we regulate have become more sophisticated, the way those professions work has become more complicated.

I work in health regulation at the moment, so you look at the impact of the response to COVID and virtual delivery of services, the way AI is changing, the way all the professions we regulate kind of works. We've had to respond to the way that professions are changing and the way the public interacts. When I first started out in regulation, social media wasn't a thing. But now you've got professionals able to reach the public through social media in a whole range of ways that are much, much harder to keep tabs on. You've got patients able to communicate and join up in kind of active groups through social media, which allows for the spread of misinformation much more quickly. I think what's changed as a result of all of that is we have to be much more proactive now as regulators. We can't just sit back, set standards and manage the complaints that come to us. We've got to be always thinking ahead, looking at how the professions we regulate are changing, how the public are consuming goods and services from the professions we regulate, and that's kind of how we sort of stay ahead of that. I think the biggest thing that's changed in maybe the last 10 years is the shift in focus from being more reactive to having to be more proactive, and always trying to be a step ahead.

Line: And Shiloh?

Shilo Tooze: Yeah, I started my career in regulation, I just passed my 25 years, and I've had the opportunity to have some really amazing regulatory teachers over the years, and I was always taught that mandate is our first job. So if we're fulfilling our mandate, we're licensing people well, we're managing our complaints well, we're setting standards, then we can go on and do some of the fun stuff. We can think about strategy and how we do our work better. And certainly over the years, I would agree that it's gotten harder to be a regulator. The world is more complex, and we really need to demonstrate the impact of our work, like, why is it important? But the one thing that I would add today versus before, is that we don't have to do it alone. We have a really good network of regulators that can support us and assist us, and we don't have to come up with all of the ideas. It's okay to borrow ideas and learn from others and adapt and take that work and use that in how we will be a good regulator.

Mike: I think that's a really important point. I talked about how the world has changed, and the challenges that that presents to us as regulators, but you're absolutely right, Shilo. That's also created an opportunity that it's much easier for us to connect up now, and share information, learn from each other, and the good practice that there is out there. So, that's the opportunity, I guess, of the way the world has changed, and what it presents to us.

Line: Sara, how about you, reflecting back on when you started this journey as well?

Sara Chambers: Sure, thanks, Line. I've been involved in regulation for about 15 years now. Like Alan, looking back, wow, time flies. And so much has changed, and I really just have to echo that the landscape of our world has just shifted fundamentally. I think, for me, what I've seen is seeing an expectation of delivery of services change dramatically. Whether it's from an applicant, a registrant, looking to enter service, to the public looking for particular outcomes or deliverables. And because that service delivery expectation has changed, it's really put pressure on the regulator to focus on different areas of our responsibility. And sometimes looking at efficiency, looking at communication, how we're communicating outcomes, how we're communicating our processes can put pressure on those core functions, and sometimes take our eyes off the prize, take our eyes away from the mission, And so being a good regulator today, post-COVID, where there's a more dramatic focus on technology, means that we have to double down with our resourcing, our staffing, our understanding of what principles of regulation really mean, and communicate those better, so we can hold ourselves accountable to accomplishing the mission and staying on mission.

Line: Now, Sara, you mentioned post-COVID, and it's so pleasant to be able to say that. But when Deanna and I last talked, it was pre-COVID. It was literally January of 2020, just as we were getting ready to face this pandemic, which certainly changed us in a lot of different ways. Deanna, kind of shifting a question a little bit for you on that, thinking back just those 5 years since it's been, well, actually, now 6 years since we last talked on this. What pressures or changes feel different today than they did, let's say, even 6 years ago?

Deanna Williams: Yeah, that's a really good question, Line, and just after you and I did the initial podcast is when the whole world changed and COVID shut everything down. And when I think about the pressures that are on regulators today, some of them, I think came directly out of that COVID pandemic. And I think there's a few others that we have to deal with that I don't think were around when we talked in 2020. One is the, what I'd call, politicization of regulation of professions and occupations, and I know it's in North America, I would assume, and I know that there's some of this going on internationally, but maybe Alan can speak to what's happening in the UK and Paul in Ireland. But here, for example, there were a number of regulatory bodies that were under increased pressure and had to navigate their way through that impact of political views on the work that we do as regulators. And an example was some of the medical regulators who were telling their professional members that they had to tell their patients to get COVID vaccines, for example, or take certain precautions. If that wasn't aligned with what our governments here in Canada thought or what their priorities were, then there was a tension that had to be worked through. And that presented a lot of challenges, I think, for regulators.

Registration areas is another, is where the governments, we've always been supported here in Canada for trying to reduce barriers that seem to be either unrealistic or unfair to registration of all registrants, but particularly internationally trained ones. And now, depending on which province you live in, some of the governments are adopting a very hard stand on how you need to eliminate all requirements because we need more people in a particular group or from a particular jurisdiction, and your requirements should just be released and let everybody in. And that's causing a lot of angst and pressure on regulators. So, those two things, I think, have changed a lot since we spoke in 2020.

Line: Absolutely, and I know from a global perspective, and since we have so many different countries represented here today, even just on our talk today, it's great to get those perspectives. Sara, from the U.S. perspective of that, from the last 5 years or so, how have you seen things significantly change or at least create more pressure for you as a regulator?

Sara: Well, I definitely have to agree with what Deanna said. In the last five-ish years, COVID has really been the most dramatic pressure on regulators from looking at the speed of policy development to be able to move. We in Alaska call it a difference between docking a speedboat and docking a cruise ship. They take different techniques and strategies, but hopefully with the same safe outcome, getting people where they need to go, but it happens really differently. And so, COVID really shifted where we needed to get maybe hundreds of healthcare providers licensed quickly to get into rural areas during

COVID to meet certain healthcare needs. To telehealth services, the landscape of telehealth and delivery of telemedicine services changing dramatically. Those all require policy shifts, and there have been just struggles, I think, as to echo what Paul said at the beginning, there have been changes in the speed at which policies can be developed, and being able to react to the public need. If we have a dramatic shift in public need, like we saw with COVID, is our policy-making keeping up? And if something needs to change in statute or legislation, requiring an act of a state legislature in some countries, a bigger body, are we able to keep up so we can operate legally and with transparency? And that's really called into question some of the structural ways that we as regulators operate.

We've also seen, again, with the healthcare, Line, some changes with just technology in the last 5 or 10 years. We've seen more opportunities for online prescribing and other delivery of services shifting from going into a healthcare provider's office to being able to get medications online. And just using that one example, there's a huge gap between what the public perceives as acceptable (I saw it as a commercial on TV - it must be legal, it must be ethical, it must be safe) to what levers are actually being pulled behind the curtain there. Are our laws keeping up to make those processes legal? But also, are we able to respond as regulators to these multinational corporate shifts and commercial shifts to make sure that those services are safe, that that supply chain is safe. And just as one example, technology also impacting policy making, again, to echo Paul's comments, has been a pressure cooker within regulation. And we're again pointing our regulatory bodies back to what are the principles of regulation, what are those right-touch principles, and are we responding, and are we setting policies in a manner that keeps us close to our mission?

Line: Great points on that, and you brought up technology. Paul, I know you and I have had conversations about AI, certainly over the last 6 years since this all occurred. What pressures are you seeing?

Paul: Yeah, I think the challenges, particularly with AI, and the unique challenges that we're seeing as regulators is the technology is outpacing our ability to design policy and typically legislation. So, what that means is typically the standard regulator would rely on a regulatory remit, with a detailed legislative framework and an enforcement mechanism. But now regulators have to rethink that process. We need to become, to the point earlier, like Alan said, agile, more adaptive. And we need to kind of proactively change our models of engagement, where we're focusing on whether it's the professionals or the end user, from the lens of safety, and we're making pragmatic decisions. For a regulator, that slightly pushes us outside our comfort zone, where we're making principled or policy-based decisions without very detailed and comprehensive legislative structures below that. It's a different approach, but I think it's one we need to do to be more agile, to deal with this new technology and these new challenges in the current environment, until we come up with more of a global regulatory framework or a more comprehensive way we can deal with these challenges as they emerge in coming years.

Line: So, Shiloh, for you, what pressures now versus 5 or 10 years?

Shilo: Yeah, so I just think the pace of change has increased so much that it's hard to keep track of everything that's going on around us, like technology, politics, AI. The world is just really changing quickly around us. And as regulators, we almost have to be experts in defining and maintaining public interest, risk identification, communication, governance, innovation. So, it's about how do we continue to be agile and change course and just keep learning and growing our skill set.

Line: And, Mike?

Mike: Yeah, I agree with all of that, and I think the other thing I'd add is we're more exposed as regulators now. I talked a bit earlier about social media and what that means for the way professions can interact with the public, and the public can interact with each other. In a world where there's a 24-hour news cycle, there's nowhere to hide. News spreads quickly, be it a professional that we regulate doing something wrong, that can immediately find its way into the public domain across multiple platforms, and it leads to much greater scrutiny. If you think back to the early model of regulation that we talked about in the 90s, usually a high-profile case where a doctor had done something wrong might appear in the newspapers at the point that he or she was being investigated. Now something can appear on any number of news sites or social media platforms almost instantaneously, either before or while we're perhaps still investigating that individual. And so, it kind of puts us much more in the spotlight and puts much greater pressure on us to act quickly, and to be seen to be acting. So I think we're much more exposed in that respect. I think that brings quite a lot of pressures to act quickly, but still trying to balance that with fairness, transparency, due process. That's fundamentally changed how we operate.

Line: Thank you. Alan, anything else you'd like to add, too?

Alan: Only I think I'd pick up on Deanna's point about the political pressures. I think they're more subtle in the UK. They mostly manifest themselves as greater scrutiny and definitely greater expectations of regulators. So it's not just about doing the job. It's about engaging; it's about being responsive, collaborating, demonstrating impact. And then you get additional things, sometimes in the form of duties to reduce burdens, promote growth, encourage innovation. And all the time, of course, you've got to do an even better core job of protecting the public. And the point that Sara made about staying on mission, I think, is absolutely critical for a regulator. Whatever the noise going on in the background, stay on mission. Otherwise, we may as well all pack up and go home.

Line: Now, Paul, in your response just a moment ago, you mentioned some trade-offs that you're potentially seeing, as regulators talk about balancing speed of processing things, fairness, transparency, and trust. But in practice, there are some trade-offs that are kind of unavoidable, especially as we're trying to move at a faster pace. What trade-off do you think is the hardest to navigate well right now?

Paul: I think that it kind of goes to Alan's point. One of the hardest trade-offs that we have seen is the pressure to apply change quickly. The World Health Organization has shown us in their data that we're going to have a substantial shortfall in medical professionals in the future. So the pressure that we are under is that we have to reduce our regulatory standards because it's perceived sometimes globally as a barrier to market entry or how professionals move around. But really what we should be focusing on instead of lowering the standard is designing, albeit with new technologies or new agreements, more efficient ways we can register people in the environment. The challenges, and one of the big pushes that we're facing, is to maybe slightly look at our standards, when really we should be looking at the systems and processes that underpin those standards. And all of that is in the environment of, and the WHO said this, and you'll see it in a lot of reports that came out from a lot of the big four consulting agencies when they looked at healthcare this year. The biggest patient safety risk is perceived to be a shortfall in medical professionals. So how can we as regulators support that, yet at the same time maintain our assurance that people who join the profession are safe to do their job?

Line: Well, speaking of access to care and health professions, Sara, I know from the medical world and speak to that.

Sara: Well, we in Alaska have dramatic rural populations; I know, Canada as well. And so, being sure that we are balancing the standards for entry with safe practice is even more important in those rural areas. Alaska is called the last frontier, and so sometimes, we see the need for people to be able to get here easily, quickly. As I mentioned during COVID, we definitely saw that change, but the infrastructure is more challenging, and so for countries that have those sort of unusual challenges, I think that it's even more difficult and even more pressing on the regulator to be able to balance those needs, those rural needs, maybe those unique population needs, those Indigenous, recognizing the needs of Indigenous populations with where you might see a larger, more present, visible, larger population, and so, we need to make sure that we're honoring that, and that we're paying close attention to those nuances where that maybe infrastructure may be centuries old.

We need to also be able to communicate. If we're looking at trade-offs and we're looking at balances, it's important that the regulator is skilled in communicating why they're making the decisions that they are, why they're taking a particular approach. So if there is a trade-off, if the public or stakeholders or applicants or industry participants see that maybe they're a winner or a loser in this trade-off, so to speak, that the regulator's communicating why, and especially with the politicization that we've been talking about, understanding the why is more important. When we're polarized as a human race right now, often we don't hear the why; we just hear a position. If we are better at using our emotional intelligence, and we're better at communicating why we're reaching this decision and why we're taking this approach, and where we're seeing that balance and striving to reach that balance, maybe with limited resources, or again, those more challenging environments we're working in, people will be more likely to come along, and that will underscore the trust that we need to maintain as regulators. People may not always agree or like the outcome, but if they can look at it and say, yeah, okay, I don't like it, but I understand why, or I see why, and I'm going to check back in with this regulator, or I'm going to expect to hear again from this regulator on how this may be shifting in the future, then that will build trust. We may perceive ourselves as falling down because we're looking at a need for greater resources, maybe we're understaffed, maybe we're underfunded, or just again, this challenging landscape, struggling to keep up, keep all the balls in the air. We need to be able to push that communication out and say, we're maintaining our mission, we're maintaining our enforcement of public safety. You may not like the approach we're taking, but here's why, and stick with us, and we're going to continue to report out. I just want to mention that CLEAR is doing an excellent job as an organization to equip regulators to do these things, and we're continuing as a body to develop training resources to make sure that regulators are equipped to demonstrate their effectiveness as regulators, because again, that may get lost in the noise.

Line: Excellent. Well, thank you so much for that, Sara. Certainly, the trust is one of those things that does make a big difference in how the public understands and can interact with regulators. Shilo, what trade-off do you think is the hardest to navigate very well right now?

Shilo: I would definitely agree there are always trade-offs. As we were just speaking about trust, trust is really hard right now. We want to do our best in all of these areas. It's like a juggling act all the time. You're always considering the impact of something on all of these areas. So if we're going to move to AI in some of our processes, what's the impact on fairness? Are we being transparent? Are we gaining or losing trust by doing that? It's always juggling, always trying to think about all of the pieces in every activity you’re doing.

Line: And now let me turn to Mike for that.

Mike: This is a tricky question to answer, and I imagine if you asked us this every year, the answer would evolve and be different. Just going back to the theme of trust, public trust in what we do. The other side is the trust of the professions and professionals we regulate. Do they have confidence that their regulator is fair, transparent, and balanced? Do governments who oversee what we do feel that we’re fair and balanced as well? I think that’s a tricky trade-off. Just making sure we're obviously fulfilling our fundamental role of protecting the public, but the professions we regulate as well feel that we're doing that in an even-handed way, that doesn't unnecessarily restrict the ability for them to do the jobs they do. But I guess in terms of broader trade-offs as well, trust has to underpin everything we do, because there has to be trust in the regulatory system for it to work effectively. You know, members of the public have to feel comfortable and confident in making a complaint, and trust us to deal with that in an appropriate way. The professions we regulate have to have confidence that they'll be treated fairly by their regulator. So I think that's the one thing we can't really trade off.

Yeah, speed, fairness, transparency: they're all important. And depending on the issue you're dealing with, some of those become of greater importance. But, you could argue it's better to take a little bit longer to manage a complaint to make sure you reach the right outcome, than to push something through very, very quickly and miss important information that could change the outcome. I think the reality is we're all under pressure to make sure we do things quickly, fairly, transparently, while maintaining trust. So we're being pulled in multiple directions. While we talk about trade-offs, the reality is, we're probably not expected to make any or many, but to do almost the impossible at an ever-increasing rate.

Line: Deanna, your perspectives?

Deanna: Yeah, thanks. A couple things. One is, Alan mentioned the increasing amount of scrutiny that regulators are under, the higher expectations that are being put on regulatory boards and councils today, and I think that's very true. And I absolutely agree, Alan, with your thought about the need to be agile and to make sure we build that capacity, and to not only be anticipatory about where we need to go, but also to be able to have that agility to do it, and do it well. On Sara's point about the why, this is something that I've seen over the last 5 or 6 years in my work with regulators, in trying to be good regulators, and I think there have been a number of examples of regulatory failure in Canada for sure, and some places internationally as well. There's nothing like an example of regulatory failure that will make all regulators stand up and say, wait a minute, what happened? And realize that when regulatory failure happens, it's usually a perfect storm of a number of things that can go wrong, and most regulators experience one or more of them at any given time.

What I see is more of a move towards trying to explain, as you said, Sara, not only what we do, but why we do it. I think that that's so important, and I keep thinking about that Simon Sinek TED talk, where he says, if the public doesn't understand why you do what you do, then what you do or how you do it doesn't really matter. I think that that is so important, and so I think a lot more regulators that I'm working with are trying now to put in a public interest rationale in all of their briefing notes, even in their decisions or actions, especially adjudicative ones. What were the things we considered, and why do we believe this is the best decision to serve the public going forward? I think that is all something that’s on that trajectory toward being a good regulator.

Line: Yeah, Alan, you were nodding your head there, too, while listening to Deanna. So, again, from your perspective, what trade-offs recently seem to be the most difficult for you guys to navigate?

Alan: I think the big one, and I'm probably summarizing Paul's point a bit here, is the trade-off between public protection and a phrase that Deanna just used, public interest. Sometimes people use them interchangeably. They do overlap, but they're not identical. We're all familiar with the protection bit—that's preventing harm, consumer protection, safety, environmental safeguards, and so on, with a particular focus on protecting those at highest risk. But the interest bit, which does include protection, is much broader, because it encompasses things like access to services or workforce, as Paul mentioned, affordability, innovation, growth, and other long-term societal goals. You've got to manage that trade-off, which requires flexibility. Essentially, I'd sum that up as, get the public protection risks down to an acceptable level, think of regulation like a safety net, and balance that with the public interest. At some point, you're all expecting me to say this, but I think the answer is right-touch regulation. It's about addressing the most serious harms, but it might mean that we have to accept some low-level risks in the public interest. If you're transparent about that trade-off, which is Sara's point, then that can build trust, which, Line, as you said, is very important for the effectiveness of regulation.

Line: All right, so speaking of trust, and you talked about the safety and interest aspects just then, where has public trust shifted as of late, and why would you say that has shifted? We'll start again right back with you, Alan.

Alan: I think trust is a mixed picture, and it varies by regulator. I get a sense, this might not be evidence-based, that trust in public institutions has fallen, and regulators sometimes are seen as part of the system that has let people down. Or perhaps it hasn't held people to account when people think they should have been, even if that's not the fault of the regulator. So I think the key things for regulators, where they tend to be trusted more, is if they're clearly seen to be independent, apolitical, to come back to Deanna's point, and particularly if they've got a specialist or technical remit, fair rules, so what they're doing looks legitimate, with a clear public benefit. We're talking about impact again here. So if you want to be trusted as a regulator, it's important to focus on independence, transparency, and visible outcomes.

Line: Sara, I see you nodding there. From that public trust shift, that we've seen here even just in the States, why do you think that is happening?

Sara: I'll just go back to what Deanna mentioned about politicization of what we're doing. That can come from elected officials themselves. It can come from the public, persons who feel that there has been some sort of a wrong or there's some kind of a chink in the armor, so to speak, of the system designed to protect them. So much can be read into the intent of the regulator in making a decision or not making a particular decision, or communicating or not communicating in a particular way. We don't know where that's going to come from, but that chatter or that noise has really been an undertow to regulators. As I and others have said before, it's pulled our focus away from the mission or at least made a greater level of pressure on our regulators to think outside of, or in addition to, what our core purpose is, which I'd have to agree with Alan, is to serve in the public interest and to do so with a right-touch regulation perspective. It's really an amalgamation of ingredients, sort of a recipe, that having so much more pressure, so much more chatter and noise and inability to communicate quickly, inability to make policy that responds quickly to technological change, or even changes in education and training for professionals—any lapse in any one of those areas is going to translate into perhaps a lack of trust from the public. That means regulators have to stay on their toes, balancing in even greater ways than before, which is pretty difficult.

But if we are communicating with each other, like through CLEAR and podcasts like this, we can help each other learn strategies and reinforce strategies that we already know, and say, I know what to do here, I just need to realign my focus. I need to pull my board back into focus. I need to pull our staff back into focus and stay aligned with our mission, stay aligned with the purpose of our existence. What is our enabling legislation? Why are we gathering here today? Help each other with those strategies and stay focused. That will lead to improvements in trust because if we're doing the job of an industry association, or we're not communicating our job well, those outcomes are not going to be translated, and people are going to get lost in that noise.

Line: Where do you think, Mike, the public trust has shifted, and why in recent years?

Mike: I think broadly, there's greater distrust in public institutions, and regulators are part of that. Because of the way that everything we do now becomes instant news, the things we get wrong, or the things we don't act on quickly enough, become exposed. Of course, 'Regulator Does a Good Job' is rarely something you see as a news headline. 'Regulator fails to act quickly enough.' 'Regulator doesn't protect the public.' 'Regulator Doesn't Censure a Professional who's Done Something Wrong.' Those are the things that make news headlines. So we only almost always generate headlines where there's bad news. The danger is, that can create a sort of negative view of the regulator and the role that they have. Often it's only when we do something wrong or don't act quickly enough that we get publicity. So the danger of that is it can erode trust if the regulator isn't seen to be acting. For the 98% of the professionals who do the right thing, because they stick to the standards we set, they comply with the professional expectations that we laid out- nobody sees that because everything is going well. But our floors become more exposed, so trust shifts away from the work we're doing because of things we do wrong or don't get right. You just get much greater exposure than in the past.

Line: Yeah, perfect, and thank you for that answer. And, Shiloh, for you, where has public trust shifted, and why?

Shilo: I definitely agree there's increased scrutiny on regulators. I partially think it's just about the world has changed. It used to be that we trusted authority figures to speak the truth and to be honest. That's not necessarily the case in the world now. We see that every day. There's so much misinformation floating around online, as you mentioned, Mike, social media. People just don't know who to trust anymore, and the respect that was given to authority figures just isn't there anymore. It has to be earned, which isn't necessarily a bad thing, but it's a different place. Regulators need to work harder to gain that trust now. We need to be honest and transparent, talk about what we did and why we did it, and listen and engage with our partners. We can see examples where this mistrust has led to increased oversight of regulators. In my jurisdiction, there's increased government oversight. We have fairness commissioners that oversee our licensing and registration practices now. As regulators, we really need to demonstrate now that what we are doing makes the world better, makes people safer, and is in the public interest.

Line: Paul?

Paul: I don't want to regurgitate a lot of what's been said already, but for me, it's not that trust has disappeared, it's a bit fragmented, I think, and for me, it breaks into three distinct pieces. One is that people still want really strong oversight, they still want protection. But they're less deferential to regulators and government institutions than they were in the past. So, that authority is no longer assumed; it needs to be demonstrated. The second issue, and I think it's one that has really been underestimated for the last couple years, but has really come into the fore during COVID, to Deanna's point earlier. Social media has amplified scrutiny. Where there is institutional missteps, even small ones, it can travel across the world instantly. So, transparency is expected as standard, and it's not seen as the exception. And the third one is, at the same time, for a variety of different reasons around the world, skepticism towards expertise in some quarters have grown. Particularly when we as institutions may appear slow or opaque. So trust now depends on visibility. It depends on clarity of purpose. It depends on showing that we are working effectively. So regulators that sustain legitimacy, really, are those who… it's not just we decide what people need to know. It goes to the point that Sara and Deanna made earlier. We need to explain our why. And I think once we look at that clarity of purpose, we can rebuild the trust. And then there's secondary issues, like, how are we engaging with our stakeholders, all our stakeholders, even the minority groups. How are we engaging with them? What's the medium? What's the content? What's the language that we're using? Is it approachable? Is it engaging? Do we invite stakeholder engagement as regulators? And that's how we will rebuild trust. So again, I don't think trust has disappeared. I think it's just fragmented in what we would have traditionally expected in our role as regulators.

Line: So, in essence, you're saying we're not perfect.

Paul: Nobody's perfect, and I think we're shifting as regulators to listen more and be self-reflective, and I think that's shown, and regulators around the world who come to international conferences, and they learn, and they kind of take that feedback back, but also who listen to the stakeholders, whether it's the professionals or whether it's the public. And they take that feedback on board to grow and change. I think, traditionally, regulators will be very closed doors - we've made our decision, and that's it. Whilst now, we need to be more open, we need to be more transparent, and we need to listen to our stakeholders. And I think back to Deanna and Sara's point, that all comes down to that why. If we can explain our message, if we can explain our purpose, if we can explain our rationale, that's how we get buy-in from not only the profession, but from members of the public.

Line: Perfect. Thanks, Paul. So, one of the things, and it's part of our motto at CLEAR, regulatory excellence, we want to try to be and we often talk about being a good regulator, as best we can, but sometimes, we're getting it mostly right. Again, we're not always getting it right every time. What does getting it mostly right look like, Deanna?

Deanna: Okay, let me kick this off. I think, just to reiterate the unremitting focus on the public and public interest. I think we have to do a better job. When I first joined the regulatory world, I was like you, Alan, back in the last century. Hardly ever did we talk about the public interest. In our vernacular, it just wasn't part of it. And now, it needs to be part of it. We need to be clear that we have considered the public interest, and why we believe it's in the focus of what we're doing. I think just working really effectively together, at all levels of our regulatory spectrum. So, how the boards work together, because some examples of regulatory failure have come where the boards have not gotten along and there's member issues. How you interact with your staff, because a mutually beneficial partnership needs to be in place. I think that there really does need to be a sound process for how risks are identified, and Alan talked about, a big part of Right Touch is making sure that you really address those serious risks. Sometimes you have to maybe accept some other risks, but we have to be able to talk about risks, and that's something that we never talked about when I first came to the regulatory arena, but now you need to know it, and that board has a real role in that.

The last thing I would say is that we have to demonstrate accountability for what we do and why we do it, and that includes better transparent, defined, and accountable evaluation frameworks for our own regulatory performance. And it's done sometimes through external reviews, but even what we do in assessing the effectiveness of the boards, the regulatory boards that govern us. How do we demonstrate our performance effectiveness collectively and individually? We need to do a better job at that, and be transparent about the results of those evaluation frameworks.

Line: You mentioned Alan a couple times there, so I'm gonna go to you next. Your thoughts on that?

Alan: Well, it's always difficult to follow such great wisdom, isn't it, and say something original, but I would say the same sort of thing, really. It's about managing the most important risks. Get all of the important things right as much of the time as possible, and keep trying to get better outcomes. That means at least the serious harms should be rare. So if you want, the floor is solid, even if the ceiling isn't perfect. So it's about focusing on what matters most, concentrating resources on areas of biggest risk, and making conscious, visible decisions about those difficult trade-offs we've been talking about. Getting it mostly right is also about learning and improving, but also recognizing that regulation is only one part of the public protection landscape that we work in, so it is important that we collaborate in order to get at least a bit closer to perfection. A simpler and shorter response is that getting it mostly right means that it works. There is a net positive benefit. The world is a better place because of this regulator, and hold yourself to account that way.

Line: Shilo, what does getting it mostly right look like, even when perfection isn't possible?

Shilo: For me, it is really about going back to basics. Focus on building a strong board, have good governance principles in place, build a strong staff team. Make sure you have good systems that are fair, transparent, accountable. The most important thing for me (and again, I don’t think this is something I would have said five or ten years ago) is remembering that there are people involved in all our processes. We need to respect the experiences of these individuals and think about how you would want to be treated if you had a complaint or were complaining about somebody. And really respecting that sometimes you need to adapt and do things a little bit differently to be mindful of people, because humans come to these processes with different feelings and perceptions. How can we support the people we're supposed to be serving and regulating?

Line: Mike, I saw you nodding your head there a little bit. Your thoughts?

Mike: That's a really important point to remind us about the people in this. As regulators, we talk about getting the right systems, processes, and governance in place, and those are important, because if you get those things right, there’s more consistency in what you do. But at the heart of everything we do are the people—the professionals we regulate and the public we protect. It can be easy to forget that sometimes, when we’re thinking about processes, value for money, and making sure we’re meeting government's expectations. At the end of the day, we're dealing with human beings. When you're thinking about members of the public we interact with, in most cases, it's people who've been through an unsatisfying or a distressing process, and, you know, they felt so distressed or unsatisfied that they've reached out to us to raise complaints. So you're generally dealing with people who are potentially quite vulnerable. There's a sensitivity in what we do.

But you have to balance that with the fact that, you know, there's a professional about whom they've made the complaint, which on day one hasn't been substantiated. We're talking about their livelihood, and putting them through a very stressful process where they're potentially being investigated, and an adverse outcome could ruin their career. I think Shiloh raises a really important point, that we can't forget the human element to what we're doing. We've got to put good governance and processes around that, and to make sure we're efficient and consistent, but we can't lose the human side of what we do. We have to make sure we care for the people who are engaged with our processes, and support them and treat them in a way that they feel they're being listened to, that they're being treated with dignity, and they're being treated fairly.

Line: That's great. Paul?

Paul: For me, it looks like proportionality. Decisions we make as a regulator are grounded in evidence, they align with our statutory mandate. They're explained clearly, even when they're contested. And if we're being honest as regulators, it means acknowledging uncertainty without paralysis. As regulators, one of the hardest things we can do is sometimes be very open and transparent and self-critical. It means correcting course when necessary, without being defensive. Regulatory excellence is not the absence of criticism. I think it's the presence of keeping integrity when we're under significant scrutiny. That can happen in high-profile cases, when there's pressure on us to get a result quickly. When you know there's a requirement for due process, to follow the steps in the process, because if you don't, it could result in an outcome which would collapse the very intention of us being an effective and functional regulator. So, for me, getting it mostly right means the public can see that you acted in good faith, within your powers, and in the interests of those you serve. Perfection, for me, is not the standard; legitimacy is.

Line: That's awesome. Well, I think, as we look ahead, I'll direct this to you, Alan. What capability or mindset do regulators need to strengthen to remain effective and legitimate in the years to come? How do they get there?

Alan: Well, for me, the easy answer is a right-touch regulation mindset. In a rapidly changing world, we need more systems thinking (something that Paul's mentioned), better risk assessment, better use of data and intelligence, and that leads us to a more proportionate model and higher impact regulation. We also need to make sure that we're seen as both independent and accountable. A phrase I really like, that's been used by a couple of people today, is that phrase, we need to explain our why. The more regulators do that, the more we build trust and the more effective we are. We also reduce the fear of regulation, which helps with people speaking up and improves standards across the board for all sorts of professions in every jurisdiction.

Line: Excellent. Sara, I see you nodding.

Sara: Everything Alan said, but I'd also add to that flexibility and humility. One area we've seen dramatic change in the last decade that we haven't touched on yet is questioning the core: does this need to be regulated? Do we need regulators? And, that was really a hot topic, really pre-COVID that was really the regulators' biggest focus, pre-COVID, as far as controversy is concerned: is our existence being threatened? And we saw that maybe wane a little bit, and perhaps coming back a little bit more with that politicization. But really being flexible, and having humility, and asking ourselves, do we need to do the things that we were created to do, perhaps when our enabling legislation was written 30, 50 years ago or more? How has the landscape changed in such a way that may threaten or question our existence. And for regulators who may be listening where your profession may be under siege in that way, I would encourage you to have some flexibility, and have some humility, and take your defenses down, like Paul said, and really question, how are we doing this differently? How is the landscape of the world calling us to regulate differently? And be open to change, so we can find that right touch, that pendulum that swings between economic development and opportunity, and making sure that there is a reasonable entry to practice, and making sure that services are being able to be accessed by people in your jurisdiction, and that there aren't turf wars from the existing regime keeping people out. And then swinging the pendulum the other way over to extreme public protection and public safety to the point where there may not be reasonable entry to practice, or there may be over-regulation or need for more resources. And as Alan will continue to remind us, that right touch point is likely somewhere in between, with the pendulum swinging as needed, depending on the circumstance and the situation, and where those maximal harms are perhaps present or likely, versus where we can relax a little bit.

And being a regulator, I think, throughout the decades, and certainly looking ahead, requires us to sort of have our heads on a swivel and look 360 degrees on all directions, and being willing to be flexible in that way, but also having that humility to say, is this different than when I received my license 30 years ago, or is the landscape changing from when I was appointed to this board, or when I joined this agency? And do I, as an individual regulator, need to think differently? And if we're honest with ourselves in those ways, then we can look to those greater systems and be influential in those greater systems, as I think we've all said we need to be, and say, how do our systems need to change? Sometimes it means being bionic, being better, faster, stronger, and responding with technology in that way, but sometimes it also means looking at how are our policy-making systems working, and how are our communication systems working, as we've all mentioned today.

Line: Thank you, Sarah. Paul, what about you? What mindset do regulators really need to strengthen right now?

Paul: For me, CLEAR is a great example of how we've moved against this mindset. The negative elements that work against this mindset is that regulators can't operate as these siloed enforcers of discrete rules. The issues we face—digital health, global mobility, workforce crisis, AI, misinformation—are all interconnected. So I think what we need as regulators, we need leaders who will understand that technology, the data, the ethics, the governance is an integrated system. And we as regulators need courage. We need the courage to say no when pressure mounts on us to drop our standards, to compromise our role of protecting the public and maintaining the standards in the profession when it is not based on evidence. I think it's the courage to innovate when stagnation does feel safer. And Sara made the point just there, and I think it is, for me, the most important point. We need humility as regulators. It is not a comfortable state for us to live in, naturally, but I do think for us to survive and to deal with the future challenges, we need that recognition that regulation shouldn't be just this immovable system. It needs to be a living system, not just this static line of code. So, the regulators who'll thrive in the next decade will be ones that are principled, adaptive, and I think have that mindset that they're globally aware.

Line: Mike, how about you on that?

Mike: Something I think I see in my role at the moment is the need to be more proactive. We talked at the start of the podcast about how regulation had changed, and how, once upon a time, the model was quite reactive. You know, we set standards, and then we dealt with complaints, and so, you know, we responded to things that came to us. I'm oversimplifying there, but… Now, that's just not good enough. You know, as others have talked about, the world is changing, and the world is changing more rapidly. And so, as regulators, we can't sit still; we can't just react to the problems that occur. We've got to be ahead of those. We've got to be thinking about what's coming next. How are the professions we regulate changing? How are the ways that the public engage with us or consume information changing? So how do we stay ahead of that?

A good recent example I saw during my time working for the Australian Health Practitioner Regulation Agency is we had a new CEO come in, and he talked about a change in mindset from having the ambulance at the bottom of the cliff to deal with the problem, to actually building a fence at the top of the cliff that stops someone falling off there and needing the ambulance in the first place. And I really like that analogy. You know, it really made me sort of stop and think about, what are the things we can be thinking ahead about that give us more data and intelligence about where issues may occur? What are the actions we can take that prevent harm or bad practice occurring in the first place, rather than having strong systems and processes to deal with those instances? So I think there's an expectation, probably, that we should be more proactive as regulators to stay ahead of issues rather than just being strong and responding to them. So I think that's a fundamental shift I've seen that will change a little bit the model of regulation. And, yeah, being more data-driven, being informed by that information and acting on it.

Line: Thank you! And for you, Shiloh, what do you think regulators need to do to strengthen right now, or mindset change?

Shilo: Yeah, I totally agree with everything you just said, Mike. I think we've talked about the need for agility a lot in this podcast. And I really think as regulators, we need to adopt a culture of learning, and thinking about continually, how do we learn more? How do we grow? How do we do better? I heard a few years ago, somebody said, if we're not going forward, we're falling behind because everything around us is changing. And I really liked that sentiment. And I think that, as regulators, we have an opportunity. We can try new things, we can innovate, and it's okay to learn. It's okay if everything doesn't go exactly as you planned every time. You do your best, you adjust your approach, and you figure out how to do it better next time. And so I really think, as regulators, with everything happening around us, we can't give up on that learning and that growing.

Line: Thank you. Deanna, any final thoughts on that?

Deanna: I think that the courage thing is very important to me. I think we have to be courageous, we have to be courageous to do the right thing. We have to have the courage to do the right thing the right way. And I think we have to keep our eyes on the changing landscape. I think sometimes we have to be pretty brutally honest in our assessment of our own capability to change - our readiness to adapt, our readiness to change, the number of resources we have. Will they support us in being agile? And I say that because I know in Canada for sure, we have very, very small regulatory bodies. We're all sort of self-regulated. If you are a regulated professional, you have your autonomous regulatory body, and not all of them are created equal. So some have huge critical masses; some don't. And I think if you don't have the capacity to be able to change in the way we're going to need to, then you're not going to survive. So, you need to really be looking at what options are there. If we don't have the capacity, what are the options available to us? I would choose courage over complacency. I wouldn't just sit and wait. And if change is coming, we'll just wait, and it'll be imposed on us. I like to be out at the front end of the train, and I would ask not ‘Can we do it’, but ‘How can we do it?’ And move forward in that way. But I do think that courage is going to be a very important part for regulators going forward.

Line: Thank you on that, Deanna. I really appreciate the conversation today. As a closing reflection, if you had to finish this sentence, and I’ll give you the sentence: "A good regulator is someone who . . . ," how would you complete it? That’s the question I have for you all right now. Let me start with Mike on this one.

Mike: I imagine, Line, if you asked us this question every few years, the answer would change. Today I'd say, drawing on the themes that we’ve covered in this podcast, a good regulator is someone who doesn't stand still.

Line: Awesome! Deanna, a good regulator is someone who… what?

Deanna: Someone who knows their business, who does it right, and who maintains the trust and confidence of those necessary stakeholders, including the public, government, other regulators, both nationally and internationally.

Line: Sara, a good regulator is someone who…

Sara: Someone who keeps their eyes and ears open to all sectors, listening, receiving feedback, soliciting thoughtful input and feedback, remaining flexible while staying aligned with the mission of serving the public interest, staying focused on the purpose of our existence, and also holding ourselves accountable for doing so.

Line: Alan, a good regulator is someone who does what?

Alan: Who challenges itself to do everything in its remit and its resources to make the world a safer, fairer, and better place.

Line: And for you, Shiloh? A good regulator is someone who…what?
Shilo: A good regulator is someone who does their best today with what they know, while thinking about how to do better tomorrow.

Line: Excellent. Paul, a good regulator is someone who does what?

Paul: A good regulator is someone who has the courage, the capacity, and the capability to grow, to listen, and to deliver on their purpose.

Line: Excellent. Well, thank you guys. I really appreciate you guys being a part of this 100th podcast episode, and to continue on with this conversation that we started six years ago with Deanna.

Guests: Thanks so much, Line! Great to see you! A pleasure chatting with everyone!

Paul: Line, and this is where I get to hijack this call.

Line: Uh-oh. . .

Paul: So, over 100 episodes ago, Line, you did something deceptively simple, you listened. And in doing so, you created a space for regulators around the world to think out loud together. Regulation can be very technical, it can be incredibly procedural, and oftentimes, as everybody on this call knows, it can be misunderstood. But through Regulation Matters, Line made it a little bit more human. He made it accessible, and he made it thoughtful. He asked the questions many of us were wrestling with, and he gave voices to perspectives that may otherwise have remained within boardrooms or policy briefing papers. 100 episodes isn't just a milestone in your broadcasting career, Line; it's a contribution to the profession and to its legacy. Through conversations on licensing reform, consumer protection, innovation, education, and emerging technologies, Line has helped shape a shared language for all our global community. It's strengthened connections across jurisdictions, and he's reminded us that while statutes may differ, governments may change, our purpose is always the same. It's to protect the public. It's to uphold trust. So, on behalf of CLEAR and our community, and on behalf of regulators across the world who've tuned in, contributed, and learned, thank you, Line. You've not just hosted a podcast; you've built a platform for collective reflection, and maybe just that little bit of change. And as we start our next round of 100 episodes, the next chapter of CLEAR's work, we will do so on a strong foundation that you've been building since 2018. So, congratulations on your 100th episode. There's not a conflict of interest check at the start of this call, but you're not just a good presenter, Line, you're also a good friend to many of us, and I know we all appreciate that. Now, many of us could not be here today, Line, but for those who couldn't make it here, a few people who have valued the work that you've done in shaping CLEAR have wanted to share a few quick words.

Pre-recorded audio shared
Marc Spector: In 2018, Black Panther was tops in the box office, BTS was number one on the Billboard, and Britain's Prince Harry and actor Meghan Markle got married. So too did Justin Bieber and Hailey Baldwin. And also in 2018, Line, you became the voice of CLEAR's podcast, a CLEAR conversation. And after 100 episodes of insight, curiosity, and humor, it's clear that no one brings more kindness to regulation than you do. And we are listening. I cannot wait till our next conversation. Cheers to you, my friend.
Ronne Hines: Hi, this is Ronne Hines, CLEAR past president. I'm so thankful for Line's work on the podcast for CLEAR and want to say congratulations on reaching 100 episodes. Line is such a wonderful host, and I've enjoyed working with him over the years. Well done!
Michael Salvatori: Congratulations, Line, on your 100th episode of Regulation Matters: a CLEAR conversation. This is a great milestone and a tribute to your dedication, your expertise, and your affable nature that makes the interviews and the conversations so engaging and so natural. Thank you for sharing your time and your talent with us, and we wish you a hundred more.
Kym Ayscough: Hi Line, it's Kym Ayscough. What an achievement to have been the consistent voice through 100 episodes of the Regulation Matters podcast. The combination of that winning charm and genuine curiosity make you a natural for this role. The international regulatory community is better thanks to your commitment to sharing contemporary regulatory expertise in this accessible format. Congratulations.
Staci Mason: Congratulations on 100 episodes of Regulation Matters: a CLEAR conversation. From the very first conversation, Line Dempsey has been the steady, engaging, and thoughtful voice and heart of this podcast, asking the right questions, elevating necessary voices, and bringing our community together through conversations that reflect CLEAR's mission. As a past CLEAR president, I'm so grateful for Line's leadership, and for the lasting impact of this incredible work. Bravo, Line. And here's to 100 more.

Line: Well, I've seen a few people that are probably good potential stand-ins for the next 100 episodes. [Laughing] I don't know if I'll make another 100, but I do want to thank everyone for their kind thoughts, and again, thank you all for being a part of this episode. I respect each and every one of you that are on this call today, and so it's great to have you a part of that. I want to give a particular shout out to Stephanie, who's been the magic behind the madness for the last 100 episodes, and without everything that she's done, we wouldn't have the podcast that we have today. So, thank you, Stephanie.

Stephanie Thompson - CLEAR: Thank you, Line. It's really been a privilege to work with you and all our guests over the years, so thank you.

Line: Well, thank you, everyone, and thank you for joining us for episode number 100. Hopefully, we'll be back talking to you again very soon at Regulation Matters: a CLEAR conversation.

The audio version of this podcast episode is available at https://podcast.clearhq.org/e/100_good_regulator/.