The second argument the life and health insurance industry made was that many of the products sold by them have an element of protection — that is, an element of insurance and an element of savings. Since these elements cannot be separated, and since you insure savings products in banks and trust companies, these products should be insured as if they were savings products. These products, however, would not be sold by banks and trust companies. If the first level playing field is truly not level, it is being replaced with another.

The committee in its report strongly takes the position that the primary reason for deposit insurance in the first place is essentially to protect the Canadian payment system so as to ensure the stability of the Canadian banking system. Insurance policies are not part of the payment system. If an insurance company goes under, it does not have a direct effect on the Canadian payment system in the way the collapse of a bank or trust company would. Therefore, to use the level playing field argument in that way does not work either, because the justification for deposit insurance does not apply to the insurance industry. Thus, the committee rejected categorically the level playing field argument of the industry.

The third argument the industry made was that the nature of CompCorp needed to be changed so that it would be able to accomplish things it cannot accomplish at present. Number one, CompCorp or its replacement needs to be independent of the operating companies.

At the moment — and this is somewhat of an incredible situation — board members of CompCorp are actually called upon to make critical decisions about the survivability of financially troubled members of their industry; that is, their competitors. Members of the CompCorp board are active members of companies that are actually competing with each other. Clearly, there is a significant conflict of interest in the current make-up of CompCorp. This conflict of interest is recognized by the industry itself. Therefore, the industry argued that whatever replaced CompCorp needed to get around that conflict of interest problem.

Second, it needed the legal authority and the financial capacity to deal with troubled companies at an earlier stage in order to do a work-out, a going-concern solution, rather than being brought in at the end after the company was essentially bankrupt.

The committee totally agreed with these two positions from the industry. Indeed, these positions were argued by many of the witnesses, not just industry witnesses but public interest witnesses and government witnesses as well.

Accordingly, we have recommended that CompCorp be replaced by an organization which we call the "Life and Health Insurance Policyholder Protection Fund." The "fund" would have three key characteristics: First, its board of directors would be absolutely independent of operating life and health insurance companies so that the conflict of interest problem would be dealt with. Second, the fund would have the ability to levy annual dues on existing companies in the industry, thereby building up a fund which the policyholder protection fund could use to deal with situations arising with respect to troubled companies prior to an actual bankruptcy.

Third, the primary role or objective of the policyholder protection fund would be to become involved at an early stage. The fund would also need access to information from the regulator at an earlier stage than is now possible for CompCorp because of the conflict of interest problems which are inherent in its organization.

The committee thus agreed unanimously with the industry's recommendations for this new CompCorp structure.

The committee did not, however, agree with the argument advanced by the industry for a Crown corporation to back life and health insurance firms. Under our proposal, the industry would turn to the policyholder protection fund. The CDIC, however, can borrow money from the Consolidated Revenue Fund; the policyholder protection fund cannot. The industry thus argued that they, too, needed to be able to borrow money from the Consolidated Revenue Fund.

The committee argued against this point in the report because we believe it is quite possible for companies, through the policyholder protection fund, to go into the private markets to borrow money. They do not need to borrow money from government sources. They do not even need government guarantees of any kind. This is a case where the private sector is able to solve its own problems.

For those who argue against this point of view, we cite two very important examples in the report. First, the model we propose with the policyholder protection fund is similar, but by no means identical, to the guarantee associations that exist in the United States. The life and health insurance industry there is regulated at the state level, not the national level. In many states, including the larger states, there are guarantee associations which would function similarly to the proposed policyholder protection fund.

In addition, these guarantee associations in the United States have no difficulty obtaining substantial lines of credit from financial institutions. They are able to do this because they can levy fees on member companies and, by legislation, every life and health insurance company must be a member of the fund. Thus they are able to borrow the money needed on the open market without having to access funds from the government.

That is precisely how the system operates, not only in the United States but also in the U.K. In both the United States and the United Kingdom, there are deposit insurance schemes that are very similar to the Canadian schemes. The Federal Deposit Insurance Board in the United States borrows from the U.S. government in exactly the same way that the CDIC borrows from the federal government. The Bank of England plays the same role as the Consolidated Revenue Fund in Canada. Yet, in both those jurisdictions, the corresponding protection organizations for life and health insurance policyholders are not allowed to borrow from government sources.

If one accepts the non-level playing field argument advanced by the industry with respect to non-access to the Consolidated Revenue Fund, then precisely the same non-level playing field exists both in the United States and in England. The committee concludes, therefore, that it is wrong to claim that the current system is unfair.