

Atlantic Task Force on Insurance Availability and Affordability

Final Report

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EXECUTIVE SUMMARY

This report is the final output of the Atlantic Task Force on Insurance Availability and Affordability (Task Force), chaired by Insurance Bureau of Canada (IBC) and including representatives from the P&C insurance industry, provincial governments, and business, recreational and non-profit groups.

The Task Force was formed in February 2005 after a series of informal meetings among stakeholders in 2004. Its mandate was to examine the causes of insurance availability and affordability problems for commercial and non-profit organizations in Atlantic Canada and develop recommendations for improving availability and affordability for these groups.

As clarification, references to consumers in this report refer to commercial insurance consumers.

CAUSE AND EFFECTS

The Task Force debunked some common myths regarding the cause of availability concerns and recognized the existence of a hard insurance market characterized by insurers withdrawing from certain market segments (voluntary sector in particular), increased deductibles and more risks excluded from policies. The hard market had a number of contributing factors, including record-low insurance industry profits (in 2001 and 2002); changes in court rulings that made laws more uncertain; changes in solvency regulation that increased capital requirements for some lines of insurance; and reduced price subsidies from investment markets.

The effects of this hard market were felt in different ways by all stakeholders represented on the Task Force, but these effects were not isolated to Atlantic Canada. Most insurance consumers saw premium increases. Some found it difficult to find suitable coverage. All expressed, in one way or another, a perceived lack of information from insurers regarding coverage as well as pricing. Some also expressed a lack of understanding, on the part of insurers, of the consumer's particular business.

The current report acknowledges that the commercial insurance market has improved over the last year, and that many availability and affordability concerns have diminished as a result of a healthier insurance industry. However, it also acknowledges that there is little competition in the market and that only a few companies serve certain segments and the voluntary sector in particular. Nonetheless, the recommendations in the report can help to further improve availability and affordability for insurance consumers and lessen the impact of the next hard market.

FINDING SOLUTIONS

After hearing from stakeholders and processing the input, the Task Force began to study potential solutions under five broad categories:

① **Government legislation**

The Task Force studied government reforms in Atlantic Canada, other provinces and abroad, and identified those that had produced the best results in terms of increasing availability and reducing premiums.

④ **Market conduct**

There is no regulation of market conduct in the Canadian commercial insurance market, so the Task Force focused on voluntary initiatives to increase accountability in the interaction between insurance companies, brokers and agents and insurance consumers, including the recent introduction in January 2005 of IBC's Code of Consumer Rights and Responsibilities.

④ **Risk management**

Risk management refers to what insurance consumers can do to reduce the risk of having to make a claim. The Task Force developed an educational toolkit for consumers about implementing risk management measures and, thereby, helping to keep insurance costs down.

④ **Specific insurance solutions**

The Task Force studied specific insurance solutions pertaining to specialty risks. Opportunities already exist to create group policies for businesses or other organizations with similar risk profiles. However, these solutions are not offered by all insurers and are not available through all agents or brokers, and consumers often do not know they exist.

④ **Communications and education**

Miscommunication and misinformation, specifically between insurers and their customers, are at the root of much of the confusion and mistrust around how insurers determine the risks they insure and how they price those risks. Insurance industry representatives educated Task Force members about the relationships among risk factors, costs and premiums, but it was agreed that broader education and clearer communication are needed about issues such as underwriting, pricing and risk management.

RECOMMENDATIONS

The Task Force considered hundreds of ideas before agreeing on 27 recommendations for solutions that will have a lasting impact for all stakeholders, as follows:

1. Insurance companies should continue to provide leadership in addressing marketplace issues by continuing to offer forums for insurers, brokers, governments and consumers to discuss issues.
2. IBC should commit to providing a multi-stakeholder report card on the implementation of the Task Force's recommendations and their impact on availability and affordability for consumers.
3. The insurance industry should promote and recognize risk management practices.
4. The insurance industry should develop consumer-friendly information to assist commercial customers to become better insurance consumers.
5. Insurers should work with interested stakeholders and their representative organizations to distribute this information.
6. IBC should amend and update its website to ensure that it addresses the basic insurance information needs of consumers.
7. The insurance industry should create a method for brokers to have more resources available in order to find insurers for specialty insurance risks.
8. The insurance industry should assist organizations that express interest in finding non-traditional purchase options.
9. Insurance companies should amend the industry's existing Code of Consumer Rights and

Responsibilities and the broker industry code of conduct to ensure that they are more responsive to commercial insurance consumers.

10. The insurance industry should circulate more widely these codes of conduct to insurance consumers.
11. IBC should continue to facilitate meetings between insurers and representatives of affected groups based on the type of activity the groups undertake.
12. Insurers should document the changes to Canada's legal environment that have affected the cost of liability insurance over the past decade.
13. Governments should review court decisions to ensure that the public's interests are being served.
14. Governments should identify legislative and regulatory changes in other jurisdictions that have had favourable impacts on insurance availability and affordability, and consider similar action.
15. The Government of Nova Scotia should modify the Volunteer Protection Act to limit the responsibility of the voluntary organization for the acts of volunteers.
16. All governments in Atlantic Canada should develop an effective Volunteer Protection Act.
17. The four provincial governments, in partnership with the insurance industry and the voluntary sector, should establish a joint process to provide independent information and advice to voluntary organizations to help them better understand the nature and type of insurance suited to their needs at the best possible price. Information should be available about sound risk management practices and practical methods to contain costs.
18. Government should take a leadership position in bringing stakeholders together to discuss the merits of tort reform and whether savings are possible.
19. Governments should consult more widely when introducing or expanding liability requirements for a given market segment.
20. The Canadian Council of Insurance Regulators should review the Minimum Capital Test (MCT) to ensure that this test is not having the unintended consequence of reducing availability for commercial insurance consumers.
21. Governments in Atlantic Canada, especially the Government of Newfoundland and Labrador, should reduce or eliminate the taxes on insurance premiums to make commercial insurance more affordable.
22. Consumers should consider implementing a comprehensive risk management strategy.
23. Consumers should create and/or maintain a relationship with their insurance representative.
24. Consumers should understand their insurance policy and ask questions for clarification.
25. Consumers should ask others with similar ventures what they are paying for insurance.
26. Consumers should understand how their insurance representative does business. Does he or she sell for one insurance company or several? If several, how many and which?
27. Consumers should commit to maintaining the dialogue among stakeholders begun with the work of the Task Force and actively promote the implementation of the recommended solutions.

The Task Force has identified who is responsible for implementing the recommendations as well as a high-level timeline for each.

SECTION 1 BACKGROUND: ISSUE OF AVAILABILITY AND AFFORDABILITY OF INSURANCE

1.1 INTRODUCTION

Insurance plays a vital role in the economy and quality of life in Atlantic Canada by assuming part of the financial risk inherent in running a business, operating a non-profit or voluntary organization, owning a home or driving a car. The availability of affordable insurance is a fundamental element of a healthy, functioning modern society.

Between 2000 and 2003, there were significant problems in the insurance marketplace and for insurance consumers. For a number of reasons insurance companies were reassessing their existing business and were hesitant to pursue new business. For all intents and purposes, there was less insurance available. In most markets, when supply declines, prices rise (one need only look at the gas marketplace to see this happen), and the insurance market is no exception. Accordingly, most consumers found that insurance prices rose sharply. For others, finding any insurer to offer coverage was a real challenge.

Insurance, like most elements of the Canadian economy, has a business cycle. There are periods of excess supply, when prices fall (called a soft market), followed by periods of short supply, as described above, when prices rise (called a hard market). The cyclical nature of insurance has been a problem since the first insurance was sold to protect shipments of cargo in the 1500s.

The purpose of this document is to:

- 1) describe what happened to the Atlantic Canadian commercial insurance marketplace between 2000 and 2003;
- 2) describe who was affected and how by the last hard market; and
- 3) identify actions that insurers – including brokers and agents – governments and consumers can take to improve the current situation and to better weather the next, inevitable, hard insurance market.

1.2 THE IMPACT?

There is not a single event that can be pinpointed as the cause for the last hard market. The terrorist attacks of September 11, 2001 are often cited as “The Cause,” but in fact, the insurance industry has survived similar losses before. This event – at the time, the world’s largest insurance loss ever – did not help the insurance picture, but those within the insurance industry considered the market to be hardening prior to the attacks. Before September 11, the ice storm in 1998 was the largest and most expensive natural disaster in Canadian history and, although it was bigger as a share of the Canadian market than September 11 was relative to the size of the US insurance market, it had very little impact on the price consumers paid for insurance afterwards.

Between 2000 and 2003, the insurance system experienced several shocks that contributed to making the hard market the worst in recent memory. These shocks included:

- record-low insurance industry profits;
- changes in court rulings that made laws more uncertain;

- changes in solvency regulation that increased capital requirements for some lines of insurance; and
- reduced price subsidies from investment markets.

Consumers' Experience

The factors listed above combined to have negative impacts on insurance consumers, insurers, brokers and governments. It should be noted that none of these shocks were isolated to Atlantic Canada. This was a global insurance market problem that reached Atlantic Canada and had a clear impact on the region's insurance marketplace.

Some groups acutely felt the impact of these shocks. The following highlights some of the concerns expressed by the stakeholder groups that were most affected. Where possible, these concerns are presented in the stakeholders' own words.

④ Small and medium-sized businesses

In Atlantic Canada there are more than 80,000 small (fewer than 100 employees) and medium-sized (101-499 employees) businesses (SMEs).ⁱ Insurance has been identified as a top issue of concern with Canadian Federation of Independent Business (CFIB) members, not just with respect to high costs, but also in relation to the availability of business insurance policies tailored to the SME market. While there are alternative means of financing some businesses without resorting to bank financing, there is no alternative to business insurance. Depending on the specific business sector, insurance coverage of some sort is often required by legislation or lenders, or both.

In a recent submission to the federal Senate Committee on Banking, Trade and Commerce in February 2005, the CFIB noted that:

- 1) Compared to all other major business input costs, premiums rank as number one in terms of having a significant impact on small business.ⁱⁱ
- 2) Insurance costs outweigh bank service charges as a concern for SMEs in every province.ⁱⁱⁱ
- 3) There are insufficient statistics publicly available to adequately understand insurance markets.^{iv}
- 4) Insurance companies are not adequately informing their SME clients when making changes to their policies.^v According to a member survey, only 51% of independent business operators were notified in writing 30 days in advance of any changes made by their insurer to their policy.

SMEs are more vulnerable to premium increases because, unlike larger businesses, they are unable to absorb smaller nuisance claims. They must purchase insurance to be fully protected, and with greater protection comes a higher premium.

④ Tourism operators, restaurants and bars

Tourism is a vital sector in the region, with \$2.76 billion in revenues and an estimated 100,000 jobs for Atlantic Canadians in the year 2001.^{vi} Liability insurance for some specific sectors has always presented a challenge for both the insurance industry and the insurance consumer, with adventure tourism and food and beverage sectors being the most affected.

The following is a list of some of the concerns reported by the tourism industry in 2004:^{vii, viii}

- 1) For outdoor tourism, there are very few companies offering coverage.

- 2) When insurance is available, organizations cannot afford it and the coverage offered to them includes conditions and reduced limits.
- 3) Larger operators are not as affected as smaller operators because they have appropriate risk management practices in place and represent a higher premium per policy.
- 4) The food sector has also experienced a reduction in the number of insurers offering liability insurance. For those who renew their current coverage, premium adjustments seem to be correlated with the kind of license (e.g., liquor) under which the establishment operates.

Ⓜ Sports and recreation operators

Throughout the Atlantic region, tens of thousands of people enjoy sports and recreational activities. For example, in Nova Scotia alone more than 160,000 people are registered members of sports organizations and clubs, and many others participate in recreational and/or other unorganized sports.^{ix}

There are also an estimated 20,000 snowmobile users in New Brunswick; 2,400 snowmobiling families in Nova Scotia; over 3,000 registered snowmobile users in PEI; and approximately 11,000 registered in Newfoundland and Labrador.^x The personal, social, economic and environmental benefits of sports and recreation are the essence of a healthy community. The recent hard market that has affected small and medium-sized businesses and the tourism industry has also affected the sports and recreation sector.

The following is a list of some of the concerns reported by the sports and recreation sector in 2003:^{xi}

- 1) The insurance industry does not have a good understanding of the sports and recreation sector and has a general perception that there is a higher risk than there actually is, which means higher premiums.
- 2) The recreation industry faces an insurance crisis that will have a devastating effect on community life if not addressed quickly.
- 3) The biggest factor in rate hikes is increasing legal fees resulting from a growing number of claims ending up in court.

Ⓜ The non-profit and voluntary sector

In Atlantic Canada there are 12,882 registered charities (including hospitals, colleges and universities) and incorporated organizations in total employing almost 106,000 full- and part-time staff members. These groups engage hundreds of thousands of volunteers (including board members) and report \$5.7 billion dollars in revenues annually. Nearly half of these organizations, however, are small, with very limited budgets, and there is a significant percentage of them that have incomes of under \$30,000 per year.

	Number of groups	Percent registered as charities	Number of groups to 100,000 population	Number of people per group	Paid staff in non-profit sector	Number of volunteers
New Brunswick	3,890	68%	519	193	33,850	295,181
Prince Edward Island	943	59%	683	146	6,172	53,621
Nova Scotia	5,829	65%	622	160	36,098	442,533
Newfoundland and Labrador	2,219	57%	427	235	29,614	235,180
Atlantic Region	12,882	64%	549	183	105,733	1,026,515 *

Source: Cornerstones of Community; National Survey of Nonprofit and Voluntary Sector Organizations 2004

* Because many people volunteer for multiple organizations, they are counted as active with more than one organization, so the number is greater than the actual number of individual volunteers. According to the *National Survey of Giving, Volunteering and Participating (2000)*, the actual numbers of individual volunteers in each province include: Prince Edward Island: 40,000; Newfoundland and Labrador: 138,000; Nova Scotia: 253,000; New Brunswick: 174,000; **Total: 605,000**

Some additional issues facing this sector include difficulty recruiting volunteers because of the perceived risk and exposure to liability and a lack of understanding by the insurers of the non-profits' actual risk. Some non-profits also report that some things that were previously covered are excluded, without warning from the insurer, in a renewal. The hard market in liability insurance affected many voluntary organizations, some reporting that important community services have been discontinued. Many other groups report carrying inadequate coverage that does not protect them against their full range of risks; still others report having no coverage at all.

In April 2005, Community Services Council Newfoundland and Labrador released an on-line survey to assess the extent to which risk, liability, and insurance concerns were affecting voluntary organizations in Newfoundland and Labrador.^{xii}

The survey results found the following:

- 1) The cost of insurance was a budgetary concern.
- 2) Effects on programs were anticipated due to budget erosion.
- 3) A negative impact on volunteer recruitment was felt and feared for the future.
- 4) The implementation of risk management procedures was rare.
- 5) Access to sources of independent information was less than adequate.
- 6) Few organizations carried a full array of insurance.

In recognition of the important role the voluntary sector plays in society in Atlantic Canada, Insurance Bureau of Canada (IBC) Atlantic Region, in cooperation with the Community Services Council Newfoundland and Labrador (CSCNL), commissioned a study to identify and assess possible legislative solutions that could lessen the impact of rising insurance prices on the voluntary sector.

Many of the recommendations from that study are included in this report. The report considered a range of opportunities with the potential to increase the protection of organizations and volunteers, including changes to public policy, providing tailor-made insurance packages, and increasing the insurance industry's awareness about the diverse range of activities and risks in the voluntary sector.

Government experience

Governments were active in the effort to moderate the impact of the hard market.

Some of the concerns expressed by governments included:

- 1) The impact of rising insurance prices on overall economic growth and development.
- 2) The social cost of fewer volunteer and cultural initiatives in general.
- 3) The absence of available data on commercial and homeowners insurance.
- 4) The perceived poor communication between insurers and insurance consumers about the rising costs of insurance.
- 5) The increasing level of financial risk being borne by governments.

Throughout the hard market, governments, for the most part, indicated that they wanted to see market-based solutions, with governments providing the framework for all parties to succeed.

In 2004, the governments of both Newfoundland and Labrador and Nova Scotia released studies of non-auto lines of insurance.^{xiii} These studies made a number of recommendations for change. The Government of Nova Scotia has publicly indicated it is looking for solutions, specifically for the voluntary sector, given that sector's vulnerability to rising premiums. As well, the Newfoundland and Labrador government has asked the Newfoundland Public Utilities Board (see www.pub.nf.ca) to hold public hearings on all non-auto lines of business.

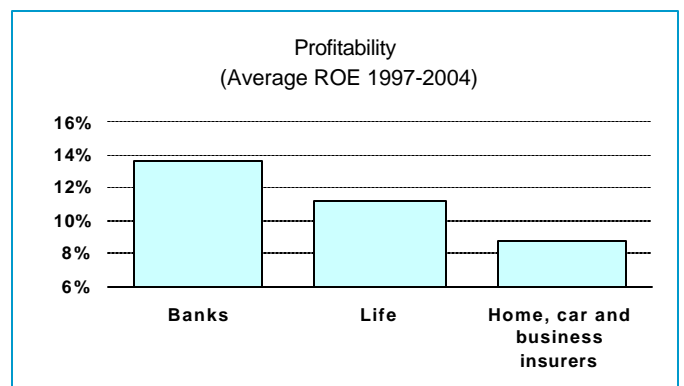
Governments want to see small businesses and community groups within their jurisdictions prosper and thrive. They also want to see the summer camps, festivals and social groups that give communities life remain open and viable. At the same time, they want a healthy and competitive insurance marketplace in their provinces.

Taxes on insurance products are also an important source of revenue for provincial governments in Atlantic Canada. Every province in Canada levies taxes on insurance premiums; while governments expressed concern for rising insurance prices, these same rising prices resulted in more tax dollars flowing directly to provincial governments.

Insurers' experience

① Record-low insurance industry profits

In 2001 and 2002, the Canadian insurance industry had its least profitable years ever. For every dollar invested in insurance companies, shareholders earned approximately two cents. (This is below the rate of inflation and lower than investors could have earned from risk-free government bonds.) These record-low earnings reduced the availability of insurance because the majority of the industry's capital growth comes from reinvesting earnings. That is, after paying



claims, taxes, dividends, etc., a company often uses any extra money to grow. When insurers experienced their worst financial years ever, there was virtually no extra money, so no insurer was looking for new business. Over the last eight years, returns of the home, car and business insurance industry were much lower than those of life insurers and banks.

® **Changes in court rulings that made the law more uncertain**

When setting a price for insurance, an underwriter must consider the expected future claims costs that a policy – or the court’s interpretation of a policy – could introduce.

Over the past decade, there have been a number of changes to the Canadian legal system, including changes to the rules of civil procedure that, in effect, encouraged more lawsuits, and made legal actions more expensive to defend and claims costs harder to predict. One change in particular that affected claims costs was the enactment of legislation permitting class action lawsuits. This change not only increased the potential size of lawsuits but also the number, as it facilitated lawsuits in cases that would not have been pursued individually.

In addition, there were also important changes to laws related to liquor retailing and organizations that deal with children, the elderly and other vulnerable groups. By expanding the potential liability of these organizations, courts have created a level of uncertainty and escalated insurers’ costs related to settling future liability insurance claims.

Indeed, insurers report that liability insurance claims are growing in size. Uncertainty about the magnitude of future claims is making this type of insurance less attractive to sell, and insurers have responded by either dropping this product line or requiring higher premiums for the same coverage. In 2004 total liability claims incurred in the Atlantic region was up by 41.75% compared to 2003, and 223.88% compared to 2000.

Here are a few points to consider:

- Over the past 25 years, liability insurance premiums have kept pace with growth in liability insurance claims.
- Over this period, liability claims have grown faster than premiums in 11 of the 25 years.
- In 2003, premiums increased by approximately 30% in the commercial liability market while there was a 27% increase in total liability claims costs. This market had been relatively stable during the preceding 23-year period.

® **Changes in solvency regulation**

The Minimum Capital Test (MCT), which insurance regulators use to ensure that insurance companies have the money to settle claims, was introduced in 2000. Part of the update involved looking at an insurer’s ability to pay claims based on the riskiness of the types of business in which they engage. For example, insurers that are in riskier lines of business are required to hold more money in reserve. Liability insurance, given the current legal environment, is considered by regulators to be a more risky type of insurance to sell.

Insurers are required to hold more capital to support a liability insurance policy than to support auto insurance or homeowners’ coverage. This makes it more expensive to supply. Ultimately, this makes liability insurance a less desirable business to pursue because it is now harder to generate a

reasonable return. With fewer insurers willing to engage in the marketplace, there are fewer choices for consumers.

In the business climate of 2001 and 2002, solvency regulators expressed concerns about the continued financial viability of several insurers. This natural regulatory response requiring insurers to set aside more money to pay possible future claims further reduced the availability of insurance.

To illustrate, consider a change in regulatory capital requirements that increases the amount of capital a company must hold in reserve to pay possible future claims. In order to meet an increase in capital requirement, the company must consider one of the following three options:

- 1) get capital injection from a third party (i.e., from the parent company);
- 2) generate additional capital internally (i.e., by raising premiums); or
- 3) reduce the amount of business being written.

Given that a capital injection is unlikely at a time when returns are low, it is easy to see how higher capital requirements have played a role in increasing premiums and reducing the availability of insurance.

④ **Reduced price subsidies from investment markets**

In the 30 years leading up to 2000, the days of double-digit interest rates, insurers were able to offset the cost of increasingly expensive claims with income earned by investing premiums. During this time, consumers paid premiums that were actually less than what was required to cover claims costs. Globally, interest rates are now at their lowest point since the 1950s. This has reduced the investment subsidy, meaning that premiums are now much more closely related to the claims costs that the policy is at risk of generating.

This new, lower interest rate environment changed the economics of insurance. In the 1950s, the last time that interest rates were at levels they are now, the industry was characterized by an “underwriting culture.” Insurers were careful to match premiums with expected claims costs and claimants were judicious when deciding whether to submit a claim. Consumers self-insured much more of their risk. Canada’s insurance marketplace has moved back in this direction in recent years. This adjustment has come about through increases in premiums and reductions in claims. It has occurred not just in Canada, but also in every other insurance market worldwide.

④ **Insurer’s experience in summary**

A reduction in the availability of insurance is not a problem exclusive to Atlantic Canada. Almost every insurance marketplace across the globe experienced the hard market to some degree. A recent survey of insurance organizations conducted by IBC showed that improving the availability of insurance coverage was identified as a priority by insurers in Australia, France, the United Kingdom and the United States.

The reasons for the hard market, and the availability problems that came with it, are described above. Insurers want to improve the situation, but they also want to remain solvent, so when costs rise, they have only two choices:

- 1) Stop writing business that does not pay for itself; or
- 2) Try to increase prices to more closely match higher expected costs.

The road to price stability and improved availability of insurance begins with stabilizing costs in order to make the business of insurance profitable.

Insurers value their role as a support for the social and economic fabric of Canada. Powerless to solve many of the problems underlying the recent hard market, insurers bear the brunt of public anger and are often the target of well-meaning but misinformed solutions.

The Current Situation

The benefit of an industry that is cyclical in nature is that things do get better. While there are still market segments experiencing difficulties, there are indications that the insurance market in 2005 is healthy once again. In 2003 and 2004, the property and casualty insurance industry returned to financial health, posting its best-ever earnings after all-time low earnings in 2001 and 2002. Consumers across Canada are among the key beneficiaries of this recovery, as stronger financial returns have led to increased competition and more stable premiums in most markets. Over this period, the number of inquiries received by Insurance Bureau of Canada's (IBC's) consumer information centres regarding availability and affordability of commercial insurance (commercial auto, liability and property) has shown a steady and dramatic decline.

One large insurer recently told the investor community that "favourable experience in commercial insurance in the last three years and strengthening of the P&C insurance industry's capital position will likely accelerate competition in commercial insurance."^{xiv}

A survey conducted by IBC in 2004 showed that the majority of commercial policies had been renewed for less – with a 2% reduction, on average. More than half of the companies with annual revenues greater than \$500,000 saw an average decrease in premiums of 3.65%. Forty-six percent of companies with annual revenues less than \$500,000 experienced an average premium decrease of 1.30%.

A follow-up survey of insurers to gauge the commercial market conditions during the summer of 2005 showed that the market was softening. To quote a survey respondent:

If the risk was able to find coverage in 2002 they can certainly find coverage today and, if they shopped the market, they are likely paying less.

While price trends vary by insurer, no insurer reported a price increase for commercial insurance. The survey confirmed the downward price trend, with 33% of surveyed companies reporting prices as "steady" (meaning no price increases from last year) and 66% reporting price decreases.

SECTION 2 - THE ATLANTIC TASK FORCE ON INSURANCE AVAILABILITY AND AFFORDABILITY

2.1 BACKGROUND

IBC has been working with a number of local, regional and national organizations representing the non-profit sector and a variety of industries, to arrive at manageable solutions to their insurance availability and affordability concerns. IBC representatives have, for example, met with a number of business groups, including the CFIB and chambers of commerce, at the national, regional, and local levels to work on solutions in the areas of underwriting and risk management. It is clear from these consultations that insurance customers are frustrated by the *status quo* and keenly interested in long-term, sustainable solutions.

Insurers recognize that the issue of insurance availability and affordability has had a significant effect on businesses, voluntary organizations and non-profit groups in the Atlantic region. To gauge the extent of the problem, IBC held stakeholder sessions around the region during the fall of 2004. IBC invited representatives of the business and non-profit communities, government and the insurance industry to attend these sessions to learn more about the availability and affordability issue, and to hear how it affects them. Approximately 100 people from all four provinces attended the sessions.

These were some of the issues raised at the meetings:

- 1) There was discussion about whether or not risk management practices affected the premiums paid by different sectors.
- 2) Better communication is needed among all stakeholders to better understand each perspective on this issue and the respective roles in developing solutions.
- 3) Insurance customers need more and better information about issues such as how rates are calculated; “ground-level” risk management; the claims process; and what they can do to support insurers in defending against frivolous claims.
- 4) Government is willing to participate in the process, but is looking for solutions – not just a better description of the problem – and evidence that the solutions will deliver the desired results.
- 5) There was also discussion about the lack of competition in the market; only a few companies currently serve certain segments and the voluntary sector in particular.

There was a consensus among all participants that the discussions at these sessions were helpful in increasing awareness and understanding of the issues facing all stakeholders. There was a sense that the discussions needed to continue but that some structure was needed. As a result, the Atlantic office of IBC created the Task Force on Insurance Availability and Affordability (the Task Force) with a mandate to develop recommendations to improve insurance availability and affordability and increase understanding of the commercial and non-profit sectors in Atlantic Canada.

Several variables were considered when selecting the membership of the Task Force to ensure the recommendations would be specific to the uniqueness of Atlantic Canada. The Task Force had to

include:

- representatives of the people and organizations affected by the issue;
- representative from the four Atlantic provinces; and
- representatives from government, commercial and non-profit organizations and the insurance industry.

2.2 MEMBERSHIP

The following organizations agreed to be members of the Task Force:

- Canadian Federation of Independent Business
- Canadian Restaurant and Foodservices Association
- Community Services Council Newfoundland & Labrador
- Consumer advocate for insurance - New Brunswick
- Consumer advocate for insurance - Nova Scotia
- Federation of Prince Edward Island Municipalities (FPEIM)
- Girl Guides Canada - Guides du Canada
- Insurance Bureau of Canada
- New Brunswick Federation of Snowmobile Clubs
- Newfoundland and Labrador Real Estate Association
- Recreation Nova Scotia
- Sport Nova Scotia
- Superintendents of insurance from the four provinces
- Tourism Industry Association of New Brunswick
- Tourism Industry Association of Prince Edward Island
- Two insurer and one broker representatives

2.3 THE SEARCH FOR SOLUTIONS

The Process

While the Atlantic office of Insurance Bureau of Canada was instrumental in the creation of the Task Force and provided resources where necessary, the Task Force was made up of a variety of stakeholders, who made decisions by consensus.

The Task Force met formally four times and communicated regularly between meetings. A project co-ordinator, an IBC resource, was dedicated to managing the flow of information resulting from the Task Force and ensuring Task Force members were kept current on the progress. Communications bulletins provided updates to Task Force members and a section on the IBC website was dedicated to providing current information on the work of the Task Force.

Efforts were also made to ensure various groups not involved in the Task Force were aware of Task Force progress including: government at various levels of the Atlantic provinces, consumer groups, non-profit organizations, business groups and IBC member companies.

The first meeting focused on defining the issue and developing high-level solutions. The meeting resulted in a long list of potential solutions; duplicates were removed and similar solutions were

combined. The result was five broad categories of solutions:

- Government legislation
- Market conduct
- Risk management
- Specific insurance solutions
- Communications and education

To assess which specific solutions would be considered, IBC developed a document that described a process and criteria against which each solution would be measured and evaluated. This was used by Task Force members and discussed in detail at the third Task Force meeting. It was at that meeting that the Task Force members agreed that all solutions, fitting under one of the categories above, should:

- be sustainable;
- have a broad impact and affect as many customers as possible;
- contribute to alleviating availability problems; and
- improve affordability.

During the second meeting, Task Force members were involved in information sessions about how insurance works. Topics included how rates are set and why, and the roles of underwriters, brokers and insurance companies. At this meeting and the third meeting, Task Force members reviewed a list of possible solutions.

The final face-to-face meeting was spent discussing progress and reviewing a list of draft recommendations. This list was then turned into a draft report that was distributed to Task Force members for input.

What follows is a more detailed discussion of how the five categories were selected by the Task Force.

The Solutions Reviewed

① Government legislation

The Task Force reviewed and examined various options for solutions that would require government support, encouragement or leadership.

- **Experience of governments in other jurisdictions**

The Task Force examined alternative approaches to the issue of availability of commercial insurance around the world. There are a number of ways that governments in other jurisdictions have improved the availability of insurance.

- **Government support for targeted insurance consumers**

Another way that governments have involved themselves in the insurance marketplace is by taking on some of the costs of insurance for specific groups.

There are several examples of how the government, the insurance industry and consumers joined forces to find an insurance solution for a specific problem. In 2005 the Nova Scotia government helped develop an insurance program to cover the Nova Scotia Trails Association (NSTA). The NSTA

is provided with \$5 million in general liability insurance protection for any claim or loss. The Nova Scotia government covers the risk up to \$1 million – essentially providing a high deductible – while Lombard Insurance Canada covers the additional costs if there is a claim or the annual cost exceeds \$1 million. Participating trails associations pay premiums, contributing about \$39,000 to operate the program. However, the cost of paying small claims and buying insurance for claims above \$1 million is expected to be about \$126,000 annually.

This program provides an example that could be extended to help other organizations gain access to insurance at a lower price.

Other government programs across Canada include:

- [British Columbia's Master Insurance Program](#) – covers the cost of liability insurance for voluntary sector organizations that are delivering services on behalf of the province.
- [Jubilee Insurance Agencies](#) – owned by the Alberta Association of Municipal Districts and Counties, provides Alberta municipal jurisdictions (and other voluntary sector organizations) access to “reasonably priced and comprehensive insurance protection.”
- The Quebec government supports a Directors' and Officers' liability program for provincial sports and recreation associations, administered by the [Regroupement Loisir Québec](#).

- **The creation of a more stable legal environment**

Several governments have intervened in the insurance marketplace by legislating changes to the laws to reduce the risks that need to be insured. There are many examples of this intervention.

In Atlantic Canada in 2003 and 2004, governments in New Brunswick, Nova Scotia and Prince Edward Island passed legislation to limit court awards for pain and suffering damages for minor injuries resulting from an auto crash. While the threshold varies among the provinces, this action has reduced the cost of auto insurance and improved insurance availability throughout the region.

Australia

In 2002, Australia experienced the collapse of a leading insurer, which, coupled with several high-profile negligence cases, led to a public liability crisis. The crisis was characterized by increases in premiums and an inability by some to obtain insurance. It affected small businesses (in particular the tourism industry), local government, sporting clubs, and volunteer and community groups. Affected groups sent submissions to the government asking for legislative reform. The Australian government formed a committee to review the Law of Negligence.

The committee's final report, released in September 2002, contained 61 recommendations covering both liability (narrowing the scope of liability) and compensation (reducing damages that may be awarded). The report recommended that the required changes be incorporated in a single statute to be enacted in each jurisdiction. Although the intent of the report was to generate a national and uniform legislative response to the perceived crisis, the various states and territories have enacted legislation addressing the issue with different degrees of similarity to the recommendations in the final report.

Tort reforms introduced in Australia can be broadly categorized into two groups: The laws of negligence that were defined in the statute, and the limits for damages for pain and suffering that were established in cases of minor injury. The intention of each of these changes was to remove or

limit the capacity to claim personal injury damages for "obvious risks" or other forms of activity that might contain some risk. Those engaging in the activities, effectively, now assume responsibility for these risks.

With these reforms in place, public liability insurance is more available; there is a greater supply of coverages from Australian and overseas insurers. Pricing pressures have eased, and in some cases insurers are reducing prices because of the new legal environment. In August 2005, the Australian Competition and Consumer Commission (ACCC) reported that public liability premiums reduced, on average, by 4% in the 12 months leading up to December 2004. The federal government has announced that the ACCC will continue to monitor premiums for a further three years.

Examples of reforms introduced in Australia include:

- Restrictions on lawyers' advertising (prohibiting them from publishing or advertising any legal services relating to the recovery of money for personal injury).
- Apologies no longer constituting an admission of liability.
- General damages thresholds and non-economic loss caps.
- The removal of liability from recreational services for personal injury or death suffered as a result of obvious risk.

United States

The Task Force looked at several jurisdictions in the United States that have enacted legislation to ease the liability insurance crisis affecting the tourism sector. For example, Colorado has enacted legislation that might lessen the legal burden placed on outdoor tourism operators when working with minors. The legislation allows parents to waive a minor's right to sue.

Alaska enacted legislation to provide outdoor tourism and recreational activity providers with some protection from litigation. The legislation explicitly recognizes that all sports or recreational activities contain inherent risks that provide challenge and excitement. Participants should accept the risks associated with those sports and activities as well as be responsible for injuries resulting from these risks. In particular, the legislation states that the liability of providers of these sport and activities is limited to negligence that is not associated with the inherent risks of the activities.

Canada

In Canada, IBC has undertaken a project with representatives from the voluntary sector, which includes three working groups examining tort reform, data and risk management.

- **Tort reform**

As part of the initiatives undertaken by the voluntary sector and the IBC, the tort reform working group examined a number of reforms that had been implemented in other countries. After screening each reform against evaluation criteria relevant to the Canadian context, seven potential reform concepts were short-listed for further review. The seven topics studied were: double recovery, joint and several liability, vicarious liability, apologies, volunteer protection, inherently risky activities, and protection of public authorities. A final report of the TRWG deliberations is in development.

- **Tax relief for insurance consumers**

Governments across Canada collect approximately 16 cents of every dollar of insurance premiums paid by consumers.^{xv} The majority of this money flows directly to provincial governments from

premium taxes.

When calculating insurance premiums, insurers factor in the cost of doing business. As a starting point, this includes income and capital taxes. Insurers pay HST (or PST & GST) on the cost of all goods and services they purchase to settle claims. This cost is passed on to consumers.

In addition to this built-in tax, every province levies a premium tax. The rates vary across the region, but it is levied on an amount that includes the HST (or PST & GST) described above. This means that every insurance premium includes tax on tax. Insurers are not permitted, by law, to inform consumers of the amount of premium taxes they pay. It simply is included in every insurance price quote given.

On top of this, Newfoundland and Labrador levies a tax of 15% on insurance premiums. The result is consumers pay sales tax on an amount that includes premium tax, calculated on an amount that includes sales tax – effectively, consumers pay a tax on a tax on a tax. This is not simple, equitable or efficient and it results in the highest tax rate on insurance premiums charged in any of the G7 nations.

The net result of these taxes is that provincial taxes represent a significant portion of the premiums paid by Atlantic Canadian insurance consumers. The following table outlines how much tax insurance consumers pay by province.

Premium related tax rates

	Premium tax	Fire tax	Sales tax on premiums	Combined rate on premiums
Newfoundland and Labrador	4%	0%	15%	19%
Nova Scotia	4%	1.25%	0%	5.25%
New Brunswick	3%	1%	0%	4%
PEI	3.5%	1%	0%	4.5%

® **Market conduct**

Market conduct means the interaction between insurance companies, brokers and agents and insurance consumers. The Task Force discussed whether government should introduce additional regulation in this area given the often small number of insurers serving specific market segments. The Task Force also discussed changes in behaviour that would improve this interaction in the next insurance hard market.

In January 2005, IBC introduced the Code of Consumer Rights and Responsibilities, a summary of the core rights of consumers in purchasing home, business and auto insurance. These include the right to privacy of personal information and the right to clear and factual information about coverage, the claims settlement process and the way intermediaries are compensated, and access to complaint resolution. As well, it reminds consumers of their responsibility to share information needed by insurers to provide appropriate coverage and settle claims. This industry code was not in place during the past hard market.

Also, insurance brokers have clearly outlined statements about the basic principles of fair transactions which consumers should expect when buying insurance. They also have adopted “Principles and Practices for the Sale of Products and Services by Property and Casualty Insurance Brokers,” which establishes best practices for broker conduct when dealing with consumers. It also provides consumers with a benchmark to assess the conduct of any insurance broker with whom they currently have a relationship, or are considering establishing a relationship.

The majority of IBC members have voluntarily adopted The Code of Consumer Rights and Responsibilities across Canada. This code has been distributed with renewal notices to consumers and continues to be distributed with new policies for all lines of insurance. It is also posted on companies’ websites.

To complement the IBC Code of Consumer Rights and Responsibilities, insurers are actively involved in developing more comprehensive Standards of Sound Marketplace Practice. In their present draft form, these emerging standards cover the following areas:

- fair claims settlement and claims handling;
- timely, accessible and responsive complaint handling;
- informed and transparent sales transactions;
- development of competitive products tailored to meet ongoing needs of consumers; and
- competent and professional insurance representatives that conform to a specified code of ethics.

While the code makes a commitment on the part of insurers it does not address some substantive issues facing commercial insurance consumers. In particular, it does not include specific requirements for insurers to provide notice to consumers about changes made to the policy. IBC is currently working with the Canadian Federation of Independent Business (CFIB) to include in the Code of Consumer Rights and Responsibilities a right to advance notice as well as a responsibility for consumers to provide timely information to insurers.

There Task Force also discussed enforcement of these types of standards and codes. For most insurers, compliance is assured not only by public sanction and the potential threat of legal action, but also by the Financial Consumer Agency of Canada (FCAC). The FCAC serves as the watchdog to monitor the implementation of voluntary codes of conduct accepted by federally regulated home, car and business insurers.

IBC will continue to work with Canadian Council of Insurance Regulators and individual regulators on risk-based regulatory innovation, including the implementation of standards of sound marketplace practice. These standards promise to both enhance consumer protection and further Canada’s readiness for more risk-based methods of insurance industry oversight.

Ⓡ **Risk management**

As discussion of potential solutions progressed, the Task Force determined that two areas required more in-depth study and agreed that, instead of simply making recommendations, it would develop specific solutions. One such solution is a toolkit to assist those who purchase commercial insurance in developing a risk management plan.

A risk management specialist was commissioned to develop an education program that would support and encourage organizations in their efforts to implement appropriate risk-management programs. This risk management toolkit provides generic risk management advice on a broad range of topics addressing common risks. While there were countless risk management areas to be addressed, the Task Force working group struck to manage this project narrowed it to 15 topics.

These risk management tools are easy to use and are based on specific risks, not specific industries. A risk-based review of their operations will allow organizations to manage their risks and, in the end, make the organizations better risks for their insurers. However, it is important to note that risk management is just one factor that is considered when determining a premium.

Risk management topics addressed are:

1. Getting started: Integrating risk management into your operations and introduction to risk management
2. Insurance as a risk management method (choosing coverages, deductibles, and limits)
3. Applying for and renewing insurance policies: How to stand out and get results
4. Slip/trip and fall risk management
5. Policies and procedures: General loss prevention and defensibility of claims
6. Vehicle/fleet risk management
7. Handling of accidents, incidents, claims and lawsuits
8. Directors' and officers' liability risk management
9. Premises risks: Liability loss prevention (other than slip and fall)
10. Premises risks: Fire loss prevention & other physical loss prevention
11. Liquor liability risk management
12. Protecting yourself from the liabilities of others (contracts and insurance certificates)
13. Special events risk management
14. Risk management for volunteer selection/use
15. Sports and recreation risk management

Because Task Force members inquired about whether the implementation of a risk management program would affect premiums paid, IBC developed an insurer endorsement that has been approved by the IBC Market Availability Steering Committee. The endorsement is as follows:

"The member insurance companies of Insurance Bureau of Canada (IBC) endorse this risk management strategy.

By implementing the risk management strategy/strategies applicable to your organization, you demonstrate to insurers that you understand risks associated with your organization and are taking the necessary steps to mitigate those risks.

Risk management is just one of many factors considered when determining any given rate but by following this risk management approach you will proactively address the risks presented to your insurance company. The more

you can minimize these risks, the more likely you are to obtain coverage at an affordable rate."

® Specific insurance solutions

Commercial insurance is not a simple product. In Canada, it is primarily distributed by independent brokers or local agents. These agents and brokers serve local markets and act as intermediaries between companies and consumers. This is the retail insurance marketplace. Most buyers who deal with brokers expect them to have access to all insurers and insurance products. This is not always the case. At the retail level most brokers have arrangements with only a few insurers.

For most insurance consumers, the distribution system works well with the products consumers need available. If a consumer can't find what they need through an insurance company they can access the "wholesale" insurance marketplace. In the wholesale market, there is another range of products or programs designed by brokers to meet the needs of specific consumers. Often times, brokers work with insurers to design group policies that combine consumers with similar risk profiles under one type of insurance coverage. In this market almost every risk, no matter how unique, can find coverage.

The insurance is available, but accessing these programs is difficult. It is almost impossible for a broker to know all of the different products and programs available because there is no complete and comprehensive list. And if professional insurance brokers have problems, individual consumers find it even harder. Prior to 2003, Recreation Nova Scotia offered its members an insurance program through a local brokerage firm. When the insurer decided to stop offering coverage to the voluntary sector, Recreation Nova Scotia was left to find an alternative. It found the Allsport program offered through another local insurance broker who offered coverage that is as good as or better than what they had at a similar cost. This example demonstrates that while there are options available, it is often difficult for organizations to get access to them unless they know they need to find the solutions themselves.

There are also specialty markets that offer specialized products to segments of the economy. For example, the Council of Tourism Associations (COTA) of BC partnered with Adventureinsurance.ca and Shaw Sabey & Associates to create a new insurance program for businesses offering nature-based tourism activities. Those who participate could benefit from increased coverage and/or savings on their next liability insurance policy. The program is the first of its kind in Canada, and is intended to help increase the affordability and accessibility of liability insurance for operators.

Because of the way the market for insurance operates, and because of the exclusivity arrangements between brokers and companies, there is no guarantee a particular product is available through any one broker serving a particular local market. In most communities across Atlantic Canada insurance brokers compete to offer insurance, however, no single broker has access to all insurance markets. This puts an onus on buyers to know where to look for the coverage they need. The situation gets even worse when one considers that only a few companies serve certain segments, and the voluntary sector in particular. Improving the information sharing between insurance companies, insurance brokers and wholesalers about the solutions that already exist would be a significant help.

® Education and communications

There is much confusion, misunderstanding and mistrust around how insurers determine the risks they insure and the appropriate price for that insurance. (Insurers define the appropriate price as the amount of money needed to settle future claims arising from the insurance contract.) The Task Force heard presentations from insurers and brokers about how this is done. Insurers advised that a claims history is just one part of the underwriting process. Underwriters must also consider qualitative factors such as:

- Legacy issues arising from similar risks in the past. For example, asbestos cases, or sexual abuse claims that courts have decided on.
- Issues that are currently emerging on this type of risk. Are there cases before the courts that have yet to be decided and would raise the liability bar significantly? Are there issues that are starting to be raised?
- Future issues that could result in increased claims. For example, the World Health Organization is studying the link between cell phones and brain tumors. This study will be published in 2007. The insurance premiums collected from cell phone manufacturers and distributors today need to reflect these potential claims.

Options such as the mandatory reporting of data were discussed. It was noted that in Ontario, where this already exists, the recent hard market affected businesses and non-profit organizations just as severely as it did elsewhere. (Also, the mandatory reporting of personal auto insurance data did not preclude significant price increases during the recent hard market cycle.) In addition, there are significant data-quality issues, and most commercial insurers have indicated that they prefer their own historical claims data as their starting point. Insurers use their own data to compete for those risks that best meet their risk appetite. Generally, the better the information insurers have, the lower the price they can offer.

If the insurance industry were to collect commercial data with a certain level of detail, some of the categories would have only a handful of entries. As a result, the data would not be statistically significant or provide meaningful information to consumers. This, coupled with the cost of reporting detailed data, would outweigh its benefits. In fact, the mandatory reporting of additional data to a central repository actually increases insurer costs and has no positive impact on the availability of coverage. Nevertheless, the insurance industry recognizes the need for more data and IBC has therefore established a Strategic Information Steering Committee of senior industry executives to examine this issue. This group is examining various data collection models and will be reporting its recommendations to the IBC Board of Directors in 2006.

Nonetheless, improved communication about qualitative issues would likely have a greater impact on availability and affordability issues than would the mandatory reporting of data for commercial insurance.

There have been some initiatives undertaken by the tourism industry that have helped some segments of the tourism market. The Tourism Industry Association of Nova Scotia (TIANS) offers two educational programs pertaining to best business practices in risk management and liability. These programs are offered via the Tourism Human Resource Council and address Responsible Beverage and Responsible Gaming at two levels – service and management. According to the 2003 report, “Insurance: It’s Everybody’s Business,” many food and beverage operations are finding they are

required by their insurer to take the program in order to qualify for insurance coverage.

Voluntary Sector Study

Task Force members acknowledged that the voluntary sector is in a unique and challenging position in securing affordable insurance coverage. The Task Force created a working group to commission and provide direction to the consultants tasked with identifying ways to improve the insurance and public policy environment for non-profit and voluntary organizations in Atlantic Canada.

The working group issues a request for proposals. The successful proposal was to:

- review potential legislative solutions that may be available to governments in Atlantic Canada;
- review potential regulatory solutions such as those proposed in the 2004 Nova Scotia Insurance Review Board report;
- explore the feasibility of other possible public policy opportunities to support the voluntary sector such as, but not limited to, exploring the feasibility of government participation in risk financing; and changes that funding agencies can make to assist the voluntary sector with their insurance rates; and
- identify and review approaches and best practices within Canada and elsewhere.

The final study, which is included as in the appendix makes 11 recommendations in the following areas:

- Volunteer protection
- Mandatory insurance coverage
- Assistance in securing coverage
- Group buying
- Risk retention
- Stability of premiums
- Insulation from insurance industry cycles
- Funding
- The various ways in which insurance to cover liabilities related to the activities of voluntary organizations and the volunteers who work for them is available.

Some high-level findings from the report are:

- Insurance for the voluntary sector is either inadequate or not present. A substantial number of organizations have no insurance.
- The voluntary sector has such specialized liability insurance needs that there are only a few suppliers in the region.
- Commercial insurance is not purchased directly from insurance companies. It is bought and sold by agents and brokers.
- The successful implementation of risk management strategies in other market segments has contributed to the improvement of available and affordable liability insurance.

SECTION 3 - RECOMMENDATIONS

There was no shortage of ideas, solutions and recommendations among Task Force members regarding how best to address the issue of affordability and availability in the region. But it must be appreciated that there is not a single recommendation that will completely address the issue. Individual circumstances apply to each organization, group or business that has experienced difficulty with obtaining insurance or obtaining affordable insurance coverage.

The Task Force agreed that the recommendations should be categorized according to the responsibilities for implementation of the solutions. Final recommendations are divided into three categories: industry, government and consumers. The solutions identified for action are consistent with the Task Force's five recommended solution areas.

- 1) Communications and education
- 2) Government legislation
- 3) Risk management
- 4) Market conduct
- 5) Specific insurance solutions

3.1 INSURANCE INDUSTRY

The insurance industry was recognized to include both insurers and insurance brokers and agents. While these three parties each play a unique role within the insurance marketplace, to consumers there is only the insurance industry.

® Continue to provide leadership

It was acknowledged by all Task Force members that each of the players in the insurance transaction has a role to play in improving the marketplace. The Task Force acknowledged the important efforts by insurers, not just in Atlantic Canada but in every region, to improve the market for those most severely affected by the last hard market cycle

Recommendation #1:

Insurance companies should continue to provide leadership in addressing marketplace issues by continuing to offer forums for insurers, brokers, governments and consumers to discuss issues.

Recommendation #2.

IBC should commit to providing a multi-stakeholder report card on the implementation of the Task Force's recommendations and their impact on availability and affordability for consumers.

④ Promote risk management modules

A thorough and thoughtful risk management plan is part of the insurance customer's commitment to prevent harm and reduce losses but it is just one part. An effective risk management strategy ensures that an organization has identified and understands the risks to which it is exposed and has created and implemented an effective plan to prevent losses or reduce their impact if they occur.

Recommendation #3:

The insurance industry should promote and recognize risk management practices by:

- *Increasing the knowledge of risk management among commercial insurance consumers;*
- *Facilitating implementation of risk management practices, using the Task Force's developed risk management education tool; and*
- *Ensuring that insurance companies acknowledge good risk management practices.*

④ Consumer education

Anyone who has bought insurance knows it is a very complex business. The insurance industry must continue to make every effort to make this complicated information more accessible to more consumers.

Recommendation #4

The insurance industry should develop consumer-friendly information to assist commercial customers to become better insurance consumers.

Recommendation #5

Insurers should work with interested stakeholders and their representative organizations to distribute this information.

Recommendation #6

IBC should amend and update its website to ensure that it addresses the basic insurance information needs of consumers.

④ Specialty market placement

In the recent hard market, consumers were not able to access some existing insurance products that might have helped them to buy insurance at a more affordable price. For example, there are group insurance programs, specialty programs and other non-traditional retail insurance markets designed for this purpose. Making this wholesale insurance marketplace work more efficiently could help to mitigate the next hard market.

Recommendation #7:

The insurance industry should create a method for brokers to have more resources available in order to find insurers for specialty insurance risks.

Recommendation #8:

The insurance industry should assist organizations that express interest in finding non-traditional purchase options.

® Market conduct

Market conduct refers to the interaction between insurance companies, brokers and consumers. Task Force members agreed that significant improvements can be made to the marketplace. The Task Force recommends the following:

Recommendation #9:

Insurance companies should amend the industry's existing Code of Consumer Rights and Responsibilities and the broker industry code of conduct to ensure that they are more responsive to commercial insurance consumers.

Recommendation #10:

The insurance industry should circulate more widely these codes of conduct to insurance consumers.

® Insurance data

Data – the amount, the type, the reporting – was the subject of much discussion around the Task Force table. The apparent disconnect between claims history – or lack of claims history – and premium increases was initially assumed to be due to a lack of appropriate data. The insurer representatives advised the Task Force that data was just one part of the underwriting process and that mandated data collection, similar to that which exists for auto insurance, would not have prevented the hard market.

Recommendation #11:

IBC should continue to facilitate meetings between insurers and representatives of affected groups based on the type of activity they undertake. These individual meetings are more likely to be helpful in obtaining usable data.

Recommendation #12

Insurers should document the changes to Canada's legal environment that have affected the cost of liability insurance over the past decade.

3.2 GOVERNMENT

The Task Force recognized that government needs to provide leadership to establish and implement a range of solutions acceptable to various stakeholders, and that there are a number of ways that governments can improve the availability of insurance.

® Implement good public policy

Over the past three years, governments have made a number of policy decisions to mandate the purchase of insurance for some commercial operations. In some cases, the amount of insurance that was mandated was not available or was prohibitively expensive.

The most important role that governments can play in improving the affordability and availability of insurance is to monitor the decisions made by the court system to ensure that they represent the

public interest.

Over the past decade there have been a number of court decisions across Canada that have introduced considerable uncertainty into the insurance marketplace. In particular, the extension of vicarious liability for voluntary organizations has increased the cost of insurance for this segment of the insurance market.

Recommendation #13:

Governments should review court decisions to ensure that the public's interests are being served.

Recommendation #14:

Governments should identify legislative and regulatory changes in other jurisdictions that have had favourable impacts on insurance availability and affordability, and consider similar action.

④ **Revise or implement a Volunteer Protection Act**

Nova Scotia implemented a Volunteer Protection Act (VPA) in 2001. So far, this is the only province to have implemented such legislation. The VPA protects volunteers from being personally sued when acting within the scope of their lawful duties in Nova Scotia. It provides limited protection from civil lawsuits for volunteers working with non-profit organizations. As it stands, it provides protection to individual volunteers and offers them immunity for their actions, unless they cause harm through willful, reckless or criminal misconduct or through gross negligence. The provisions have not been tested by the courts, but, presumably, individual volunteers now have greater protection than they had without the VPA.

Recommendation #15:

The Government of Nova Scotia should modify the Volunteer Protection Act to limit the responsibility of the volunteer organization for the acts of volunteers.

Recommendation #16:

All governments in Atlantic Canada should develop an effective Volunteer Protection Act.

④ **Assisting the volunteer sector**

Some voluntary organizations have neither sufficient knowledge about insurance nor the means to buy appropriate coverage. They do not necessarily know the full range of options available to them or have a well-qualified source of independent advice to help them find what they need. Furthermore, the sector is too fragmented, organizations are too small, and they lack the resources to deal with the problem themselves. If the initiatives are to be undertaken, the process needs a champion. As part of this joint process, the insurance industry has made significant financial contributions directed at the voluntary sector.

Recommendation #17:

The four provincial governments, in partnership with the insurance industry and the voluntary sector, should establish a joint process to provide independent information and advice to voluntary organizations to help them better understand the nature and type of insurance suited to their needs at the best possible price. Information should be available about sound risk management practices and practical methods to contain costs.

® **Tort reform**

Tort reform was recognized as a means to potentially reduce the cost of insurance significantly. Tort reforms in Australia and some parts of the United States and Europe have successfully addressed the availability and affordability issues. Limited tort reform measures in Atlantic Canada to date were also cited as examples of how tort reform can result in more affordable insurance. However, the Task Force did not discuss the merits of any specific tort reform options.

Recommendation #18:

Government should take a leadership position in bringing stakeholders together to discuss the merits of tort reform and whether savings are possible. Government is suitably positioned for this role.

® **Liability limits**

The insurance industry does not establish or control the level or amount of liability coverage that must be purchased in order, for example, to qualify for a business license. These liability limits are established by governments, occasionally as a too hasty response to an event or perceived exposure to excessive risk. In many cases, the amount of coverage does not accurately reflect the true risk.

Recommendation #19:

Governments should consult more widely when introducing or expanding liability requirements for a given market segment. It is an important dialogue to have with all stakeholders.

® **Insurer solvency requirements**

Among other responsibilities, government regulators work to ensure that insurance companies have the financial resources available to pay claims. This measurement of solvency was changed in 2000 and required those insurers doing riskier business – liability insurance is considered by government to be risky – to hold more money in reserve to pay claims. Because these requirements leave companies with less money to use for growth and investments, liability insurance became a less desirable business in which to engage and resulted in fewer companies selling this type of coverage.

Recommendation #20:

The Canadian Council of Insurance Regulators should review the Minimum Capital Test (MCT) to ensure that this test is not having the unintended consequence of reducing availability for commercial insurance consumers.

④ **Insurance taxes**

Governments throughout Canada collected approximately \$6 billion in income and sales taxes from insurance consumers in 2006. This tax bill represents approximately 15% of the cost of insurance for consumers.

Recommendation #21:

Governments in Atlantic Canada, especially the Government of Newfoundland and Labrador, should reduce or eliminate the taxes on insurance premiums to make commercial insurance more affordable.

3.3 CONSUMERS

④ **Implement effective risk management practices**

In the course of its work, The Task Force created a number of opportunities for organizations to understand better risk management and the ways to implement effective risk management strategies within their organizations. In addition, additional resources and opportunities can be made available through a customer's insurance representative.

Recommendation #22:

Consumers should review risk management information available to them. They should consider implementing a comprehensive risk management strategy that will help reduce or eliminate loss. It simply makes good business sense.

④ **Become a more knowledgeable consumer**

The Task Force members likened it to a medical diagnosis; one would not take a serious diagnosis or treatment plan from a physician without asking questions or asking for a second opinion. Why would you do this with one of the most important financial decisions you must make?

Recommendation #23:

Consumers should create and/or maintain a relationship with their insurance representative. The better an insurance representative can understand the business of an insurance customer, the better he/she can present that customer to an insurance company. The better an insurance company can understand the business, the more accurately it can assess the risk and assign an appropriate premium.

Recommendation #24:

Consumers should understand their insurance policy and ask questions for clarification.

Recommendation #25:

Consumers should ask what others are paying. They should talk with other groups or businesses that provide the same, or similar, products or services that they provide. These like groups should be a good barometer of what their organization should be paying in premiums.

® **Become a better shopper**

If a consumer receives an unsatisfactory price for a policy from the current insurer, the insurance representative should be approached to find quotes from the other insurance companies he/she represents. (Brokers sell insurance for several companies; agents sell insurance for only one company.) If the insurance representative still cannot get a price that is appropriate, another broker or agent should be consulted. Often there are many insurance companies competing for a consumer's business.

Recommendation #26:

Consumers should understand how their insurance representative does business. Does he or she sell for one insurance company or several? If several, how many and which? Insurance quotes do not cost consumers any money and, in the end, can save money.

® **Continue to work toward solutions**

The solutions recommended by the Task Force will not simply happen. The implementation phase may, in fact, be the most challenging part of the work of the Task Force. Consumers must stay committed to the task of implementing the solutions.

Recommendation #27:

Consumers should commit to maintaining the dialogue among stakeholders begun with the work of the Task Force and actively promote the implementation of the recommended solutions.

SECTION 4 - ACTION PLAN

The Atlantic Task Force on Insurance Availability and Affordability was an important first step in improving the insurance marketplace for commercial insurance customers. The creation of this forum where consumers, insurers, brokers and government worked together to create realistic, concrete and long lasting solutions was a first in Canada.

The Task Force did not identify any single action that would itself solve the problems experienced by commercial customers, because there was no single reason for the situation that led to the hard market. The Task Force also acknowledged that the hard market did not affect only Atlantic Canadian insurance customers; it was a worldwide problem.

To ensure that the important work of the Task Force is not simply shelved shortly after its release, the proposed action plan was developed. The Task Force categorized the recommendations in terms of when they begin:

Short term – Items that could be accomplished by Task Force members within the next year.

Medium term – Items that could be accomplished by Task Force members (or governments) in the next two to three years (i.e., before the next hard insurance market).

Longer term – Items that require broader discussions with stakeholders across Atlantic Canada.

	RECOMMENDATION	Lead Responsibility	Timeline
1	Insurance companies should continue to provide leadership in addressing marketplace issues by continuing to offer forums for insurers, brokers, governments and consumers to discuss issues.	IBC	Short term
2	IBC should commit to providing a multi-stakeholder report card on the implementation of the Task Force's recommendations and their impact on availability and affordability for consumers.	IBC	Short term
3	The insurance industry should promote and recognize risk management practices by: <ul style="list-style-type: none"> ▪ Increasing the knowledge of risk management among commercial insurance consumers; ▪ Facilitating implementation of risk management practices, using the Task Force's developed risk management education tool; and ▪ Ensuring that insurance companies acknowledge good risk management practices. 	IBC and provincial broker associations	Short term

	RECOMMENDATION	Lead Responsibility	Timeline
4	The insurance industry should develop consumer-friendly information to assist commercial customers to become better insurance consumers.	IBC and provincial broker associations	Short term
5	Insurers should work with interested stakeholders and their representative organizations to distribute this information.	All Task Force members	Short term
6	<i>IBC should amend and update its website to ensure that it addresses the basic insurance information needs of consumers.</i>	IBC	Short term
8	The insurance industry should assist organizations that express interest in finding non-traditional purchase options	IBC	Short term
10	The insurance industry should circulate more widely these codes of conduct to insurance consumers.	IBC and provincial broker associations	Short term
11	IBC should continue to facilitate meetings between insurers and representatives of affected groups based on the type of activity they undertake. These individual meetings are more likely to be helpful in obtaining usable data.	IBC	Short term
12	Insurers should document the changes to Canada's legal environment that have affected the cost of liability insurance over the past decade.	IBC	Short term
13	Governments should review court decisions to ensure that the public's interests are being served.	Provincial governments	Short term
18	Government should take a leadership position in bringing stakeholders together to discuss the merits of tort reform and whether savings are possible. Government is suitably positioned for this role.	Provincial governments	Short term
19	Governments should consult more widely when introducing or expanding liability requirements for a given market segment. It is an important dialogue to have with all stakeholders.	Provincial governments	Short term
22	Consumers should review risk management information available to them. They should consider implementing a comprehensive risk management strategy that will help reduce or eliminate loss. It simply makes good business sense.	Consumers, brokers and agents	Short term

	RECOMMENDATION	Lead Responsibility	Timeline
23	Consumers should create and/or maintain a relationship with their insurance representative. The better an insurance representative can understand the business of an insurance customer, the better he/she can present that customer to an insurance company. The better an insurance company can understand the business, the more accurately it can assess the risk and assign an appropriate premium.	Consumers, brokers and agents	Short term
24	Consumers should understand their insurance policy and ask questions for clarification.	Consumers, brokers and agents	Short term
25	Consumers should ask what others are paying. They should talk with other groups or businesses that provide the same, or similar, products or services that they provide. These like groups should be a good barometer of what their organization should be paying in premiums.	Consumers	Short term
26	Consumers should understand how their insurance representative does business. Does he or she sell for one insurance company or several? If several, how many and which? Insurance quotes do not cost consumers any money and, in the end, can save money.	Consumers, brokers and agents	Short term
27	Consumers should commit to maintaining the dialogue among stakeholders begun with the work of the Task Force and actively promote the implementation of the recommended solutions.	Consumers	Short term
7	The insurance industry should create a method for brokers to have more resources available in order to find insurers for specialty insurance risks.	Insurance industry and brokers	Medium term
17	The four provincial governments, in partnership with the insurance industry and the voluntary sector, should establish a joint process to provide independent information and advice to voluntary organizations to help them better understand the nature and type of insurance suited to their needs at the best possible price. Information should be available about sound risk management practices and practical methods to contain costs.	Four provincial governments with participation from voluntary sector and insurance industry	Medium term
20	The Canadian Council of Insurance Regulators should review the Minimum Capital Test (MCT) to ensure that this test is not having the unintended consequence of reducing availability for commercial insurance consumers.	Canadian Council of Insurance Regulators	Medium term

	RECOMMENDATION	Lead Responsibility	Timeline
21	Governments in Atlantic Canada, especially the Government of Newfoundland and Labrador, should reduce or eliminate the taxes on insurance premiums to make commercial insurance more affordable.	Provincial governments	Medium term
15	The Government of Nova Scotia should modify the Volunteer Protection Act to limit the responsibility of the volunteer organization for the acts of volunteers.	Government of Nova Scotia	Medium term
14	Governments should identify legislative and regulatory changes in other jurisdictions that have had favourable impacts on insurance availability and affordability, and consider similar action.	Provincial governments	Longer term
16	All governments in Atlantic Canada should develop an effective Volunteer Protection Act.	Provincial governments	Longer term

APPENDIX

Below is the Executive Summary of the Voluntary Sector Study commissioned by the Task Force. The report, in its entirety, can be accessed at www.ibr.ca

Introduction

The Insurance Bureau of Canada Atlantic Region and the Community Services Council Newfoundland and Labrador initiated this project in response to the recent “hard” market for insurance. Its purpose was to identify ways to improve availability and affordability of insurance for non-profit and voluntary organizations in Atlantic Canada through improvements in the insurance and public policy environment. This summary presents the principal findings, along with recommendations for improvement.

Unmet Needs

The insurance needs of voluntary organizations in Atlantic Canada are not currently being met very well. Many organizations continue to have difficulty obtaining the coverage they need at an affordable price. A substantial number have no insurance. Others have coverage but it may not be suited to their needs. And, if they have coverage, it is likely to be more expensive than it should be.

Problem Dimensions

The problem is due to a confluence of issues related to the distinctive characteristics of

- the voluntary sector,
- the insurance industry,
- insurance market operations,
- Atlantic Canada,
- the legal system, and
- the overall public policy environment.

Statistics Canada conducted a National Survey of Nonprofit and Voluntary Organizations (NSNVO) in 2003. It showed a very diverse sector comprised of organizations serving a large variety of needs in predominantly localized areas, supported by very little revenue. Of the 161,227 incorporated organizations included in the survey, 21% were involved in sports and recreation and 19% were religious organizations, with the remaining 60% divided among a very broad range of activities.

Although the voluntary sector is large, it represents a relatively small segment of the overall market for property and casualty insurance. Voluntary organizations’ needs for insurance are mainly related to liability under tort law. And their liability risks are quite diverse,

reflecting diversity in organizational mandates and characteristics. Because liability insurance represents less than 10% of the overall Canadian market for property and casualty insurance, however, that means their needs are often fairly specialized.

On the supply side:

- insurers offer products that are differentiated to improve their competitiveness,
- there are only a few potential suppliers of the products needed by voluntary organizations in Atlantic Canada,
- both buyers and sellers depend on intermediaries – agents and brokers – to find the right match between needs and product availability,
- buyers, sellers, and intermediaries all have limited knowledge of each other, and
- agents and brokers serving the local markets where most voluntary organizations are based often do not have either the products or the knowledge to serve those organizations' distinctive needs.

The issues in the Atlantic Region are not much different from those experienced by voluntary organizations elsewhere. The principal factor distinguishing the situation here is the challenge of distributing specialty products to a small population spread over a large area divided into four political jurisdictions – which is very similar to the challenges in distributing other goods and services in the Region. Even then, other areas outside major population centres likely have much the same problem.

Solutions are potentially available. They can be categorized generally in terms of:

- improving the supply of insurance products, and
- changing the way voluntary organizations buy insurance.

In creating the solutions, there are implications for both funding of voluntary organizations and public policy.

Availability – the Supply of Insurance Products

Insurance companies have little or no presence in the predominantly local markets served by voluntary organizations. Their offices are typically in major urban centres and their contact with insurance buyers is mainly through agents and brokers that represent them in serving local markets.

Insurers provide coverage to voluntary organizations primarily through programs they offer to the commercial sector. Some of their needs can be met adequately through such programs. For example, voluntary organizations' needs for automobile, property, and fidelity insurance can be met through conventional commercial coverage. On the other hand, most insurers do not offer programs designed to meet the more specialized needs of organizations in the sector.

If the major insurers writing most of the business in Atlantic Canada had programs designed for the voluntary sector, availability would not be a problem. Because most don't have such programs – or at least programs that are easy to access – brokers who represent them in the region do not have ready access to programs that suit their voluntary sector clients and must look for specialty programs.

Even when coverage specifically targeted at voluntary organizations is available, the supply can change, sometimes rapidly, as was found during the last hard market. For example, Royal & Sun Alliance – a major player in all four of the Atlantic Provinces – stopped offering coverage to the sector in 2003, leaving many organizations scrambling to find replacement coverage on short notice. That year, the company had an underwriting loss in Canada of \$82,991,000 – the second worst of any insurer in the country – undoubtedly influencing its decision to change its positioning in the market.

During the same year, other major insurers in the Region – Economical, Co-operators, Aviva, Wawanesa, and Dominion of Canada – also had substantial underwriting losses, affecting their willingness to carry some risks. ING, the largest insurer in the country, did not have an overall underwriting loss but still chose to withdraw from writing new business in Newfoundland and Labrador.

Changes such as those described above have very pronounced effects in the Atlantic Region, which has a small population spread over a very large geographical area and which represents a relatively small part of the Canadian market for insurance. When a major player, such as Royal & Sun Alliance stops offering coverage to the voluntary sector, it means many brokers no longer have products to offer the sector – so they have to go looking for new products.

The fact that insurance products suited to the needs of voluntary organizations are not readily available in the Atlantic Region does not mean they are not available elsewhere in Canada or potentially available here. In particular, there are programs specifically targeted at the sector that are underwritten by Aviva, Sovereign General, Ecclesiastical Insurance, and Lombard Canada, all of which do at least some business in all four Atlantic Provinces.

Although insurance programs are potentially available, even in Atlantic Canada, that does not mean they are readily available everywhere or voluntary organizations know about them. Availability depends largely on the brokerage firms that serve local markets. And, because brokers often have exclusive arrangements with insurers, there is no guarantee a particular product is available through any one broker serving a particular local market.

Enterprising brokers can put together programs to meet particular needs, sometimes obtaining coverage from different insurers for different elements of risk. Across Canada, a

number of brokers have worked with insurers to develop broker-sponsored programs designed for the voluntary sector. However, they are likely to take such initiatives only where there is a substantial number of organizations that have similar needs. And that usually means the brokers serve markets with fairly large populations.

The fragmentation of both the market and the brokerage industry in Atlantic Canada makes it difficult for any one broker here to put together programs for particular groups that have sufficient numbers to be attractive to an insurer. But it has been done. For example, a consortium of brokers – including MacDonald Chisholm, Bell and Grant, and Fraser and Hoyt – put together a program to serve all the municipalities in Nova Scotia.

When brokers do take the initiative and develop programs to meet special needs, they want exclusive rights to distribute the programs. Otherwise, they are not likely to obtain much of a reward for their work.

In some cases, local brokers obtain exclusive rights to sell programs developed by other brokers elsewhere. For example, MacDonald Chisholm has the exclusive right to sell the program developed by Allsport in Nova Scotia. Both Sport Nova Scotia and Recreation Nova Scotia take advantage of that program.

Prior to 2003, Recreation Nova Scotia offered its members an insurance program underwritten by Royal & Sun Alliance and offered locally through Bell and Grant Insurance Brokers. When Royal & Sun Alliance stopped offering coverage to the voluntary sector, Recreation Nova Scotia had to find an alternative. Although it requested proposals from brokers, only one was received – the Allsport program offered through MacDonald Chisholm. As it turned out, the Allsport program was a good replacement, providing coverage that was just as good and at a similar cost to the one that was lost.

Recreation Nova Scotia's experience illustrates a key point. During the hard market, a voluntary group that was forced to find coverage from a new insurer may have been able to find the coverage if it changed brokers. However, an organization that continued to depend on the same broker that had been serving its needs likely had more difficulty arranging coverage – because the broker had lost its product line – and had to pay a higher price if it found coverage – because the broker had to look outside its normal roster of insurers.

Another significant point is that the Allsport program is underwritten by Aviva, the second-largest insurer in Canada and one of the top three providers of coverage in each of the Atlantic Provinces. To access the program, however, voluntary groups cannot deal directly with Aviva or even brokers who represent Aviva for home and automobile coverage. They must deal with a local broker, who accesses the program under an exclusive arrangement with a wholesale broker that organized the program with Aviva. In other words, Aviva's

program can be accessed only through the back door. Despite the convoluted process, the program still offers coverage that is more economical than others available to voluntary groups.

If more local brokers had agency relationships for programs developed by brokers elsewhere, it might help solve the problem of availability. However, many do not have sufficient numbers of prospective clients with similar needs to make such arrangements worthwhile. And, because there is a lack of data related to voluntary groups' premiums and claims, it can even be difficult for them to identify opportunities.

Sometimes, a broker-sponsored program is developed in conjunction with an umbrella organization that serves the needs of its individual members. For example, Aon Reed Stenhouse and ENCON developed a Directors and Officers Liability Insurance program in conjunction with Volunteer Canada. It is available to voluntary groups across the country. To access the program, an association is required to pay a fairly nominal fee to Volunteer Canada to cover administrative costs, in addition to the insurance premium.

As the foregoing discussion illustrates, size matters a lot when it comes to buying insurance, an industry that depends for its existence on the law of large numbers. Although the voluntary sector is large, its diversity and the relatively small size of individual voluntary organizations – which are its strengths in serving social needs – work against it in finding suitable insurance coverage. Organizations need to work together to find a solution.

Affordability – the Cost of Insurance

Affordability is a function of both:

1. cost; and
2. ability to pay.

If premiums increase sharply, as they did during the hard market, most voluntary groups do not have much flexibility in their funding arrangements to absorb the increases.

Over the past year-and-a-half, the insurance market has softened and premiums have been falling. On the other hand, premiums for liability insurance have not softened as much as those for other categories of insurance.

In many respects, the price paid for insurance is a function of its availability. The Nova Scotia Insurance Review Board observed in its report that,

“Affordability and availability are very closely associated. A factor that changes one aspect will often impact the other.”

One of the basic principles of economics is that the price of any particular good or service is

determined through the interaction of demand and supply. When demand exceeds supply, the price goes up, reducing demand to bring it into balance with supply. When supply is greater than demand, the price goes down, stimulating demand and again bringing it into balance with supply. These principles apply to the cost – and affordability – of insurance for voluntary organizations in the Atlantic Region.

If there were more suppliers of insurance to the sector, there would be more competition and the price could be expected to go down. However, specialized needs always find limited supply.

Apart from competitive influences, premiums charged by insurers are based on their expectations related to the costs of providing coverage. Those costs are driven by a number of different factors, including:

- claims – dependent on the occurrence of adverse events and influenced by lawyers, court judgments, and public policy;
- reinsurance – influenced by industry cycles;
- selling costs – commissions to agents/brokers; and
- administrative costs – influenced by the volume of accounts.

The major factor in setting premiums is the cost of claims. No hard data are available on voluntary organizations' claims costs but anecdotal evidence suggests they are low. On the other hand, costs of liability claims are potentially very high, trends in tort law indicate the probability of claims is likely to increase in the future, and claims can arise long after the events that give rise to them. Differences between possibilities and probabilities represent uncertainty – which is a factor in setting premiums.

For voluntary organizations, a significant aspect of affordability is stability in premiums, which are partly influenced by the costs insurers incur for reinsurance to spread their risks. When there is an industry-wide reduction in capital – as there was due to claims filed following the terrorist attacks of September 11, 2001 – it leads to reduced underwriting capacity, reduced competition, and higher premiums for reinsurance.

Selling costs are another significant factor. Sales commissions can take up to a quarter of the amount paid for premiums. But that is partly the price of getting coverage for special needs.

Indeed, there is a trade-off between amounts paid for premiums and service levels. Individual voluntary organizations are typically relatively small and undoubtedly want to pay as little for insurance as possible. On the other hand, that translates into a low level of service from agents/brokers and insurers.

Administrative costs are another very real issue, because they can be high, especially for dealing with large numbers of small organizations that do not have much in-house knowledge of insurance. To cover those costs, some insurers set minimum premiums for handling accounts. The Lunenburg-Queens Regional Development Agency (LQRDA) found that organizations had been asked to pay minimum premiums for Directors and Officers liability coverage ranging from \$500 to \$2,000. The Nova Scotia Insurance Review Board reported that groups had been asked to pay minimum premiums ranging from \$750 to \$5,000. In contrast, the LQRDA observed that some organizations had coverage through Recreation Nova Scotia “for a nominal fee per year”.

Because umbrella voluntary organizations that offer insurance programs to their members typically take on part of the administrative load, they are able to obtain better premiums from their suppliers largely because they avoid the minimum premiums. Volunteer Canada charges its members a \$25 fee to cover administrative costs related to the directors and officers liability insurance program it sponsors. Similarly, Recreation Nova Scotia charges its members a fee to cover administrative costs related to the Allsport insurance program. To keep such fees low, it helps to have a substantial number of members.

In addition to the premiums, another element of the cost of insurance coverage is the taxes levied on premiums. All provinces and territories charge some taxes. Those levied by the four Atlantic Provinces are higher than most – with Newfoundland and Labrador being the highest in the country, by far. When premiums rise during a hard market, the corresponding increase in taxes adds to the overall burden.

Recommendation 1 – Provincial governments in the Atlantic Region – especially the Government of Newfoundland and Labrador – should consider eliminating taxes on insurance premiums paid by the voluntary sector.

Apart from premiums and taxes, affordability is also a function of voluntary organizations’ ability to pay. According to Statistics Canada’s National Survey of Nonprofit and Voluntary Organizations, over 40% of the organizations surveyed had annual revenue totalling less than \$30,000 and over 60% had annual revenue of less than \$100,000. However, the survey included only organizations that were incorporated, a fraction of the overall total, so the proportions of voluntary groups operating with very little revenue are undoubtedly much higher. Because most voluntary groups have little ability to pay, what is “affordable”?

Surveys carried out by the Community Services Council Newfoundland and Labrador and the Lunenburg-Queens Regional Development Agency in Nova Scotia both indicated approximately 40% of the organizations surveyed did not carry any insurance, primarily

because they could not afford it.

When voluntary organizations do not buy insurance, it exacerbates the overall problem of availability. A relatively small segment of the overall market for property and casualty insurance effectively becomes even smaller. And that diminishes the voluntary sector's attractiveness for both insurers and brokers.

An Unattractive Market Segment

Fundamentally, availability of insurance, premiums charged, and the level of service the voluntary sector receives reflect the fact that it is not an attractive market segment for the insurance industry – not just in Atlantic Canada but around the world. Although the voluntary sector is large, it is unattractive for the following reasons:

1. it is a relatively small segment of the overall market for property and casualty insurance compared to automobile owners, home owners, and the commercial sector;
2. it owns relatively few automobiles and little property – the insurance industry's core coverage areas and main sources of revenue;
3. it is made up of many small, independent organizations serving local areas with diverse mandates, leading to high service costs for selling and administration;
4. some organizations have a very limited life span, being put together on an ad hoc basis just to put off special events;
5. the sector's principal insurance needs are related to liabilities under tort law – which can be very diverse, arise long after the events that create them, lead to open-ended costs, and represent less than 10% of the market for property and casualty insurance;
6. in many cases, a voluntary organization's activities depend on use of assets owned by others, who do not want to be exposed to the liabilities related to the activities;
7. liability risks are a specialized area of insurance, characterized by relatively low probability of an adverse event but high potential severity;
8. some of those risks are so large they may simply be uninsurable;
9. risk management practices in the sector vary a lot;
10. voluntary organizations often buy insurance with fairly low deductibles, because they do not necessarily understand the impact of deductibles on premiums and because of their limited means – but that transfers substantial costs to insurers, which ultimately must be reflected in premiums;
11. most insurers do not like providing liability coverage by itself;
12. voluntary organizations have little knowledge of insurance and very limited resources, so
 - they expect a high level of service, and
 - they cannot afford to retain much of the risk, but
 - they cannot afford to pay much for the coverage; and
13. there is a lack of reliable data to help with underwriting the risk.

In general, voluntary groups that own property, such as religious organizations, are more

easily able to obtain the coverage they need than organizations that need liability coverage only. Similarly, when there are substantial numbers of organizations engaged in similar activities – as there are in sports and recreation – there is more likely to be an insurance program available to them.

To improve availability and affordability of insurance, voluntary sector organizations have to make themselves more attractive to insurers. There are good examples of how that is already being done, both in Atlantic Canada and elsewhere.

There is little voluntary organizations can do to change the nature of their mandates, their scope of operations, or the kinds of coverage they need. But they can reduce the likelihood and magnitude of liability claims. And they can improve the ways in which they buy insurance, to benefit from economies of scale by reducing selling and administrative costs.

Reducing the Likelihood and Magnitude of Claims

The principal means available for reducing the likelihood and magnitude of claims is a good comprehensive program of risk management – not simply transferring the risk to an insurer. In other sectors and jurisdictions that have sought to improve availability and affordability of insurance, risk management has been a key component.

Recommendation 2 – Voluntary organizations should ensure they have good programs for managing their risks, to reduce the likelihood and magnitude of claims.

Liabilities flow from tort law. And there has been a long-term trend in the evolution of tort law contributing to increases in the frequency and cost of claims. Reform of the tort law system could help to reduce the likelihood and magnitude of claims.

Tort law exists to compensate victims who have had wrongs inflicted on them, either deliberately or accidentally. In our society, a basic principle is that victims deserve to be compensated. That is not likely to change through reform. Rather, the argument for tort reform is to reduce costs related to frivolous claims and avoid paying compensation that is excessive relative to either the injury suffered or the contribution to that injury.

There is little evidence that frivolous claims and excessive compensation are currently problems related to the activities of voluntary sector organizations in Atlantic Canada – or elsewhere for that matter. Because of the trend, however, it is an area of uncertainty that is priced into premiums.

Recommendation 3 – Voluntary organization should support initiatives to reform tort law as a means for maintaining stability of premiums over time.

In some jurisdictions and for some types of insurance, introduction of no-fault coverage has been found to eliminate most of the legal costs attributable to the tort law system, thereby reducing overall costs. It may be possible, for example, to introduce a program of no-fault insurance coverage based on the model currently in use in New Zealand that would reduce the effects of the insurance industry cycle.

Recommendation 4 – The potential for implementing a no-fault insurance program for voluntary organizations should be investigated.

Changing the Way Insurance is Bought

In buying any product or service, there is no substitute for being a knowledgeable, informed buyer. And insurance is a particularly complex purchase. Organizations in the voluntary sector need help to find coverage suited to their needs – but the way the market presently operates means they are not getting the help they need from the insurance industry.

It is difficult to be a knowledgeable, informed buyer without data related to the risks borne by voluntary organizations. Data provide better knowledge of risks and provide the foundation for better risk management. Because no organized effort to collect such data currently exists, the lack of data is a very significant impediment to buying the right coverage at the right price. The uncertainty undoubtedly leads to premiums for insurance that are higher than they should be.

Lack of data related to voluntary sector risks is not limited to Atlantic Canada. It has been an issue throughout the insurance industry for a long time. And that is not likely to change in the foreseeable future. Ultimately, the best solution is for the voluntary sector to collect its own data, so it can be used for risk management, assessing needs for insurance coverage, and negotiating both coverage and premiums.

Insurance to cover liabilities related to the activities of voluntary organizations and the volunteers who work for them can be purchased in different ways, including

1. the organizations can purchase coverage on behalf of both the volunteers and the organizational entities;
2. individual volunteers can purchase some coverage for themselves;
3. owners of property used by voluntary organizations for their activities can purchase incremental coverage for those activities;
4. voluntary organizations can participate in group buying programs already in existence; and/or

5. they can organize new groups to retain some of the risk and/or attract competition among suppliers for the coverage they need.

Currently, the first approach is the most common – but it is not the most economical.

Neither volunteers nor owners of property used by voluntary organizations in carrying out their activities want to be exposed to the liability risks associated with those activities. Even insurers – who are in the business of accepting the risks of others – find it an unappealing prospect. It is much like a game of pass-the-broom. Each participant wants to pass the risk on to someone else and doesn't want to be holding it when the music stops.

In many respects, it is only fair that voluntary organizations be responsible for managing their risks and buying insurance as part of that process. Such logic certainly applies in the commercial sector. And it makes perfect sense from the perspective of the volunteers and the property owners. On the other hand, voluntary groups create a lot of social value with very limited resources and need all the help they can get. Many such organizations do not buy insurance, because they simply cannot afford it, potentially leaving victims with no clear route to compensation – and contributing to the need for tort lawyers to expand the range of parties that can be found liable. And organizations that do buy insurance pay more for it than they should.

Most volunteers in Canada likely already have some coverage for liabilities related to their volunteer activities. For example, one homeowner's policy says,

“You are insured for claims made against you arising from:

Personal Liability – legal liability arising out of your personal actions anywhere in the world.”

As might be expected, there are some exclusions to this coverage. For example, the policy cited does not include claims arising from “the rendering of or failure to render any professional service”.

Similarly, most volunteers' use of personal vehicles is covered through their standard automobile policies. Should that coverage not be sufficiently comprehensive, an endorsement is available that covers use of vehicles to carry passengers for compensation. For that endorsement, one of the larger insurers in Atlantic Canada charges an additional 10% of the third party liability premium. Another charges an additional 10% of the third party liability and accident benefits premiums. And a third does not charge for the endorsement unless it is applied to a bus.

Considering that a reasonably typical policy providing \$1,000,000 of liability coverage costs

about \$350 and accident benefits cost an additional \$70, the incremental premiums are fairly nominal. For about \$40 per year, a volunteer would not have to worry about liabilities related to use of his/her personal vehicle in carrying out voluntary activities – on behalf of any volunteer organization. In the absence of such coverage, each voluntary organization for which the volunteer works might find it necessary to buy liability coverage related to non-owned and hired vehicles.

If volunteers were able to arrange for coverage of their liabilities as directors and officers through similar riders on their property insurance, it would make that coverage more widely available and likely at a relatively nominal cost. The coverage would then apply, regardless of the number of voluntary organizations that make use of their services. And it would relieve those organizations of the cost of providing coverage. Such coverage for directors and officers does not currently seem to exist in Canada. But it could become available if an effort were made to develop a suitable package.

Similarly, if municipalities, school boards, churches, and commercial organizations were willing to extend their coverage to voluntary groups using their premises, the incremental cost to them would likely be relatively small but the benefits to the groups would be substantial. Property owners can purchase such coverage but typically do not want exposure to the additional liability, because of concerns about their own insurance costs. Consequently, they require voluntary groups to have coverage as a condition of use. A significant factor in their choosing not to offer such coverage is difficulty in incorporating independently operated volunteer groups into their risk management programs and/or ensuring that such groups follow proper risk management procedures.

Another option available to voluntary organizations is to participate in group buying programs. Some programs already exist but they are not necessarily well known throughout the voluntary sector. In some cases, the programs are sponsored by brokers, as was discussed earlier. In other cases, they are operated outside the insurance industry.

One of the benefits of group buying is the avoidance of minimum premiums charged by insurers simply to cover administration costs. As was discussed above, many small voluntary organizations are charged such minimum premiums, which are much higher than premiums they would be charged as part of a group.

Because insurance depends heavily on the law of large numbers, the voluntary sector becomes much more attractive to insurers when organizations come together in groups – the larger, the better. As a group, they represent a much bigger premium base and can attract more insurers to offer competing quotes. And they can take advantage of economies of

scale in selling and administration costs. Typically, programs are organized through an umbrella group that takes care of relationships with brokers and insurers, as well as publicizing the programs to its members and doing much of the administration, relieving brokers and insurers of these burdens.

In organizing buying groups, the principal challenge is the diversity of voluntary sector risks. Insurers prefer to deal with groups that have fairly homogeneous risks.

In the United States market, approximately 25% of property and casualty insurance is provided through alternative risk transfer mechanisms – i.e. outside the normal market for such coverage. For example, some organizations with similar insurance needs have organized themselves into risk retention groups. Members of such a group pay premiums to the group administrator. The administrator then uses the funds to settle smaller claims, buy insurance for larger catastrophic risks, and cover administrative costs. Simply by self-insuring part of the risk – in effect, establishing a fairly high deductible – the group makes itself much more attractive to insurers, can buy protection against catastrophic risks at reasonable prices, and saves money on premiums. Typically, the administrator of such a risk retention group also works with its members to improve risk management practices.

Risk retention groups are usually formed to deal with risks that are fairly homogeneous. However, risks in the voluntary sector are quite diverse, reflecting fragmentation of the sector and the diversity of mandates and characteristics of individual organizations. A risk retention group may be a viable option for some relatively large clusters of organizations in the sector with similar mandates. But it is not likely to be a solution for the many small organizations that account for much of the sector's diversity, leaving gaps in availability. Because Canada is an even smaller market, the gaps in this country may be even larger than in the US. And it is reasonable to think the gaps could be even bigger in the Atlantic Region.

Governments are often insurers of last resort. But they should only finance risks that cannot be transferred to the private market at acceptable costs.

Some provincial governments have taken initiatives to fill gaps in coverage. For example, the Government of British Columbia has developed a Master Insurance Program to provide coverage to organizations from which it buys services. The Jubilee Reciprocal Insurance Exchange operates in Alberta. Régroupement Loisir Québec provides coverage to recreation groups in Quebec. And in Nova Scotia, the provincial government has sponsored a program for the Nova Scotia Trails Association that also includes coverage provided by Lombard

Insurance Canada.

As the foregoing indicates, solutions to the problem of insurance availability are potentially available. And they have been found right here in Atlantic Canada. But a broader range of solutions may have to be found to meet the diverse needs of the Region's voluntary sector.

Funding

Regardless of the level of insurance premiums, affordability depends partly on ability to pay. Adequacy of funding is a very substantial issue for the voluntary sector. In considering affordability of insurance, two critical considerations must be taken into account:

1. a substantial number of voluntary organizations – especially the smaller ones – do not have insurance, because they cannot afford to buy it; and
2. organizations that do have insurance are likely paying much more for it than they should be.

If organizations are spending too much on premiums, the first order of business should be to spend existing funds wisely, by maximizing the value obtained for money spent, through means such as those discussed in the previous section - essentially forming groups to buy proper coverage, with appropriate exclusions and deductibles. However, it must still be recognized that many voluntary organizations operate without much funding and do not currently buy insurance. If they do not have insurance, anyone injured through their activities is likely to have trouble obtaining compensation.

To expand the pool of funds available to pay for insurance, there are really only two options:

1. obtain more funds from existing payers; or
2. expand the number of payers.

Neither option is likely to be an easy proposition. And voluntary groups nearly always have more uses for funds than the limited amounts they have available, so spending decisions are guided by their priorities – which may not always include buying insurance.

Obtaining More Funds From Existing Payers

Individual voluntary organizations depend on different combinations of three primary sources of funds to pay for insurance – earned revenue, donations, and operating grants. Each source has different implications for affordability.

Organizations that earn revenue through membership fees or sale of goods or services have at least some possibility to increase their prices – but customers' willingness and ability to pay can be an issue. If government is the payer, it may have the ability but not the willingness. If the organization charges fees to individual clients with special needs, they

may not have the ability to pay.

Donor-dependent organizations can also raise additional funds. But the market for donations is very competitive, so it places extra burdens on the fundraisers, who are often in short supply themselves. And raising more money simply to pay for insurance costs is not likely to provide them with a high level of motivation.

Grant recipients must depend on grantors' willingness to increase their grant payments. There has been a trend for granting agencies to provide funds mainly for programs and services and not for administration costs. Because of accounting conventions, it is likely that most organizations record insurance premiums as part of their administration costs. However, most voluntary organizations' liabilities flow primarily from program activities, so insurance should more properly be categorized as a program cost, rather than as administrative overhead.

Regardless of the accounting, however, applying for grants is competitive. Granting agencies have limited funds, and nearly always have more requests than funds available, so they tend to stretch those funds as far as possible. Increasing a grant to one recipient means another does not get funding or receives less. Furthermore, they usually have funding cycles. If costs increase unexpectedly in mid-cycle, organizations have to wait till the next cycle to reflect that in their requests.

Expanding the Number of Payers

Potential exists to expand the number of payers, to reduce the burden on both the voluntary organizations and the people and organizations providing them with funds. Some possibilities were discussed in the previous section. For example, encouraging volunteers and owners of properties used by voluntary groups to extend their coverage to include volunteer activities would relieve the burden from the groups themselves. It is easier and cheaper to obtain liability coverage along with property coverage than to obtain it as a standalone product. Savings to voluntary organizations would likely be much larger than the incremental costs to volunteers and property owners.

Another option could be a program similar to the one whereby telephone subscribers currently pay a fee to support the 911 emergency service. If all insurance buyers – personal and commercial – were given an opportunity to make a donation to a fund that would pay the insurance premiums for voluntary groups, it could raise a substantial amount of money. In 2003, the premiums paid for property and casualty insurance in Atlantic Canada totalled a little over \$2.275 billion. If just 1% of that could be raised through a donation program, it would amount to \$22.75 million – and go a long way to providing insurance for the voluntary sector, relieving funding pressure from the recipients. Such an amount would represent less than \$1 per month per capita.

Some incentives would help to encourage donations. If the donations were made to a registered charity, individuals could be provided with tax deduction receipts, as well. Businesses would be able to deduct their donations for tax purposes anyway. Consequently, the donations could be divided into two pools – the donations from individuals could be used to pay insurance premiums for charitable organizations and those from businesses could be used to pay premiums for voluntary organizations that are not registered charities.

If brokers and insurers were willing to contribute, it would expand the pot even further. And, of course, they would benefit from it, as well.

Recommendation 5 - The sector should work with government and the insurance industry to provide an option to buyers of insurance so they can pay a little extra – possibly a percentage of their premiums – when they renew their policies, to raise a significant pool of funds to help voluntary organizations pay their premiums.

Public Policy

Several aspects of public policy must be taken into account in considering availability and affordability of insurance for voluntary sector organizations in Atlantic Canada. They include:

1. protection of volunteers and voluntary organizations from liability;
2. operation of voluntary sector organizations without insurance;
3. reform of tort law;
4. support for initiatives related to risk management and buying insurance; and
5. coordination of effort among different jurisdictions.

Protection of Volunteers and Voluntary Organizations

Although the frequency of claims may be low, volunteers and voluntary organizations have exposure to liability risks related to their activities and the consequences are potentially catastrophic. In providing coverage to individual volunteers and the organizations they work for, insurers must take these facts into account.

Collectively, the voluntary sector contributes a lot to society at relatively little cost. To encourage development of the sector, volunteers working in good faith, within their assigned mandates, and using due diligence should reasonably be protected from liability for accidental injuries they may cause in the course of their activities.

Governments in different jurisdictions have tried to provide such protection to volunteers and voluntary organizations. The protection is invariably limited but it does help remove a disincentive for people to contribute to their communities by engaging in volunteer activity. One of the lessons from the experience to date is that, when different political jurisdictions

provide protection but do it in different ways, it causes confusion – as has been the case in the United States and Australia. In Atlantic Canada, Nova Scotia is the only jurisdiction to have passed a volunteer protection act for such a purpose so far.

Volunteer protection acts passed in different political jurisdictions vary a lot in their provisions. However, they are not necessarily helpful in improving either availability or affordability of insurance. Such acts do not eliminate liability; they merely transfer it under specified circumstances. Most acts transfer the liability of volunteers to the organizations for which they work. Some also give protection to volunteer officeholders. And charitable immunity laws, such as the one in New Jersey, provide immunity to the organizations, as well.

Despite the transfer of liability, a victim continues to be entitled to compensation, so there must be some means of recovery. In the United States, it is common for voluntary organizations to require volunteers to provide them with an indemnity in the event harm is caused by the volunteer's wrongful acts or omissions, essentially shifting the risk back to the volunteer. Such indemnification is specifically prohibited in some jurisdictions.

The US federal volunteer protection act allows states to pass their own laws that supersede or modify the provisions of the federal act. Specifically, there is a provision that allows a state to require a charitable organization to provide a financially secure source of recovery for people who suffer harm, as a condition of volunteers' obtaining protection. In the vast majority of cases, the means of recovery is an insurance policy. Without such a means, liability continues to rest with the volunteers.

The Nova Scotia Volunteer Protection Act contains no such provision. A volunteer's liability is transferred to the organization but, if the organization does not have insurance or other means to compensate a victim, the victim is forced to either absorb the loss or seek redress from other parties with sufficient means.

In short, volunteer protection acts do not eliminate the need for insurance and may even require it. If – as was found in the Lunenburg-Queens Regional Development Agency survey – volunteers and organizations think they do not need insurance because of them, such acts may even lead to undesirable outcomes.

Recommendation 6 – The four provinces in Atlantic Canada should pass legislation to protect volunteers from liability, subject to conditions, and provide a clear path to compensation for victims. To minimize confusion, the legislation should be the same in all four provinces – and even coordinated with other jurisdictions across Canada.

On the other hand, volunteers may be able to obtain insurance coverage for their voluntary activities at nominal personal cost, so that should be taken into account in determining the level of protection provided.

Operation of Voluntary Sector Organizations Without Insurance

It is a well-established principle of tort law that anyone suffering from an injury inflicted upon them – either physical or economic – is entitled to compensation from the wrongdoer. Insurance provides people and organizations with the means to compensate victims for wrongs they commit, limiting damage to their lifestyles and operational capacity. Allowing voluntary organizations to operate without liability insurance is somewhat akin to allowing people to drive cars without coverage. There is potential for injury but no clear path to compensation. Consequently, governments should consider whether or not that is an acceptable public policy position.

If a voluntary organization is not insured, there is a reasonable chance it also is not incorporated, so its members are potentially liable for any harm it may cause. On the other hand, if volunteers and voluntary organizations feel immune from consequences for their actions and see little value in managing their risks, protecting volunteers may actually be counter-productive. Insurers feel more comfortable underwriting risks when the people and organizations they cover retain a share of the risk.

Recommendation 7 – Protection from liability provided to volunteers and voluntary organizations should be contingent on availability of insurance or other means to compensate victims.

Tort Reform

Reform of the tort law system is likely to be a long-term initiative, requiring much public debate. It is not likely to be achieved in time to improve availability and affordability of insurance for voluntary organizations in Atlantic Canada when the insurance industry cycle swings toward another hard market. Where extensive tort reform has been undertaken – most notably in the United States and Australia – the impact on premiums has been difficult to distinguish from that due to softening of the market for insurance.

Nevertheless, considering the long-term trends in development of tort law, there is merit in reform to reduce uncertainty and eliminate abuse and the costs it imposes on insurance buyers and society as a whole.

Support for Initiatives Related to Risk Management and Buying Insurance

In the Atlantic Region, the best way to improve availability and affordability of insurance for voluntary organizations is to undertake initiatives to improve data collection, risk management, and the ways in which they buy insurance, as outlined earlier. Such initiatives can be taken and lead to substantial benefits in the relatively short term.

Unfortunately, however, most voluntary organizations do not have sufficient knowledge and many do not presently have the means to buy appropriate coverage. They do not necessarily know the full range of options available to them or have a well-qualified source of independent advice to help them find what they need. Furthermore, the sector is too fragmented, organizations are too small, and they lack the resources to deal with the problem themselves. If the initiatives are to be undertaken, the process needs a champion.

And the most likely champion is government – ideally, the four provincial governments in the region acting together, to maximize economies of scale in a relatively small market. These governments have the mandate, the expertise, and the financial resources to make it happen.

So far, governments have largely chosen to ignore the problem and do nothing. Because of voluntary organizations' contributions to the quality of life, however, they should have a strong incentive to help.

The cost of such a centre should not be high but the benefits should be substantial. For example, a group of five people looks after the insurance program for the Province of Nova Scotia. A centre could be modeled on similar centres in other places and even take advantage of work those centres have done already.

The key to improving the situation is that claims frequencies seem to be low for most voluntary activities. And, although claims may be settled occasionally at very high cost, most seem to be for small amounts, so it helps to distinguish between them.

Many voluntary organizations already buy insurance – but they may not have the right coverage and very likely pay too much for it, because they are unable to take advantage of economies of scale and have difficulty handling even small claims themselves. By taking advantage of economies of scale, the overall cost of a properly designed insurance program may not be much different from that being incurred now, while the coverage could be much better. And much of the money voluntary groups use to pay insurance premiums likely comes directly or indirectly from government.

Recommendation 8 – The four provincial governments in the Atlantic Region, possibly with assistance from the federal government, should create a voluntary sector risk management centre to provide appropriate independent advice to voluntary organizations to help them obtain insurance suited to their needs at the best possible price. As part of its mandate, the centre should collect data related to voluntary sector risks, claims, and associated costs. It should maintain a database of programs available through insurers and brokers that are suited to the sector’s needs. And it should offer training to volunteers and voluntary organizations in risk management and insurance and to brokers and insurers about the distinctive needs of the sector.

Each provincial government has people with knowledge of risk and insurance, who can facilitate the process of obtaining suitable insurance coverage for voluntary organizations at a reasonable price. By leading the effort to obtain coverage for voluntary groups, they can make an extremely valuable contribution to society and the quality of community life. They are able to assess the sector’s insurance needs, develop a comprehensive approach, including specifications for insurance coverage, and deal with brokers and insurers to obtain the coverage at reasonable cost.

And there is a precedent where they have found a creative solution. Earlier this year, the Nova Scotia government facilitated development of an insurance program to cover the Nova Scotia Trails Association. The principles used in the program can be used more broadly, to help other voluntary organizations gain access to insurance at an affordable price.

Under the program, trails associations are provided with \$5 million in general liability insurance protection for any claim or loss. The provincial government covers the risk up to \$1 million – essentially providing a high deductible – while Lombard Insurance Canada covers the additional cost when an individual claim or the annual cost exceeds \$1 million. Participating trails associations pay premiums, contributing an estimated \$39,000 to operate the program. However, the overall cost of paying small claims and buying insurance for claims above \$1 million is expected to be about \$126,000 annually.

The Department of Transportation and Public Works is responsible for risk management on behalf of the province. Most claims fall into the range of \$2,000 to \$3,000. The provincial government handles the small claims itself, so Lombard does not have to move funds into its reserves when the claims are made and diminish its underwriting capacity. The province has a fee-for-service agreement with a broker but handles much of the relationship with the insurer on its own.

Government is committed to the program for five years. During that period, data will be accumulated to modify it for subsequent years. Premiums may be adjusted based on the

cost of buying insurance above the \$1 million guarantee and claims experience. If Lombard's loss ratio is less than 35%, it will pay a rebate on the premiums charged.

The Trails Association model is now being expanded into a national program, through participation of the other provinces and territories. And the same principles can be used to develop a comprehensive program to meet the needs of voluntary organizations. In effect, it is based on the reciprocal risk retention group model, except the provincial government is facilitating getting it set up. A similar model for other voluntary organizations does not have to include government funding but some injection of funds may help in getting the scheme started.

Recommendation 9 – Risk managers who work with the different provincial governments in the Atlantic Region should be asked to collaborate to develop a comprehensive insurance program suited to the sector's needs, following the model already being used to provide coverage for the Nova Scotia Trails Association. In developing such a program, the risk managers should look at providing coverage in different layers, for example by

- taking into account coverage already available to volunteers through their personal home and automobile insurance,
- considering how coverage through those personal lines might be extended to include volunteers' roles as directors and officers,
- looking at the possibilities for obtaining coverage at little incremental cost through policies carried by owners of properties used by voluntary organizations – e.g. municipalities, school boards, and churches,
- taking greater advantage of sector-specific programs that are already available,
- providing a mechanism for handling small claims, to allow larger deductibles, and
- purchasing insurance for larger losses that are potentially devastating.

Recommendation 10 – As part of the comprehensive insurance program, voluntary organizations with compatible needs should form buying groups to attract greater interest from insurers and gain economies of scale.

A key element in creating such a model is obtaining participation from the volunteer groups themselves. Program viability depends on a high level of participation – which cannot be taken for granted. To ensure a high level of participation – and prevent voluntary organizations from operating without adequate insurance – government may want to make participation mandatory.

As long as the voluntary sector continues to purchase insurance, it will be tied to the industry cycle of hard and soft markets. Experience elsewhere has shown that the only means

available to insulate voluntary organizations from that cycle and stabilize premiums is to form sector-specific insurance pools. Because the protection provided by such a pool depends heavily on its overall size, the larger the pool that can be created the better. A regional – or even national – initiative would be better than one taken on a provincial basis.

Recommendation 11 – Buying groups with sufficient scale should establish risk retention groups, to make better use of the premiums they pay, by dividing claims between those with high frequency and low payouts and others with low frequency but high potential severity. Paying small claims internally allows buying insurance with higher deductibles, helping to lower premiums.

Coordination of Effort Among Different Jurisdictions

In the same way that program viability depends on participation by voluntary organizations, its viability can be enhanced through participation of all four Atlantic Provinces. The Atlantic Region is a relatively small and fragmented market for insurance products. Protection provided by the law of large numbers and economies of scale in program administration will be much better, if the program operates on a regional basis, rather than provincially. Again, there is a precedent – the Atlantic Lottery Corporation is owned and operated jointly by the four provinces.

Recommendation 12 – To gain maximum advantage from economies of scale, the four Atlantic Provinces should coordinate their efforts in developing a comprehensive insurance program for the voluntary sector.

ENDNOTES

- ⁱ Statistics Canada, Business Register, June 2004
- ⁱⁱ Canadian Federation of Independent Business, "Ensuring Canada's Future Through More Effective Banking and Insurance Services: CFIB Statement to the Senate Committee on Banking, Trade and Commerce," February 2005, p. 8.
- ⁱⁱⁱ Ibid., p. 9.
- ^{iv} Ibid., p. 8.
- ^v Ibid.
- ^{vi} Atlantic Canada Opportunities Agency, <http://www.acoa.ca/e/media/press/press.shtml?1662>
- ^{vii} Ad-Hoc Working Group for an Insurance Solution for Outdoor Tourism, "A National Insurance Program For The Outdoor Tourism Industry."
- ^{viii} Tourism Industry Association of Nova Scotia, Recreation Nova Scotia, Sport Nova Scotia, The Restaurant Association of Nova Scotia, Canadian Volunteerism Initiative - Nova Scotia Network, "Insurance It's Everybody's Business," Fall 2003.
- ^{ix} Many of the organizations referred to as sports and recreational groups are also included in the statistics for the non-profit and voluntary sector.
- ^x <http://www.nbfsc.com/permits.html>
<http://www.snowmobilersns.com/aboutus.cfm>
<http://www.gov.pe.ca/visitorsguide/explore/snow.php3>
- ^{xi} Tourism Industry Association of Nova Scotia, Recreation Nova Scotia, Sport Nova Scotia, The Restaurant Association of Nova Scotia, Canadian Volunteerism Initiative - Nova Scotia Network, "Insurance It's Everybody's Business," Fall 2003.
http://www.truesportpur.ca/files/partners/SNS2004/SNS_December_03.pdf
- ^{xii} "Insuring Sector Survival: Insurance and the Voluntary, Community-based Sector in Newfoundland and Labrador," <http://envision.ca/Insurance/InsuringSectorSurvival2005.pdf>
- ^{xiii} <http://www.gov.ns.ca/nsirb/documents/NSIRBPropertyStudy.pdf>.
<http://www.gov.nl.ca/gq/cca/ip/pdf/ins-study.pdf>
- ^{xiv} ING Canada Reports First Quarter results
http://library.corporate-ir.net/library/18/186/186633/items/151613/Q1_Release.pdf
- ^{xv} Five-year average estimate using data from IBC annual tax surveys of total taxes paid (income, capital and transaction taxes) by insurers divided by total industry premiums.