

THURSDAY 12 JULY 2007

Present

Dundee, E
Gale, B
Greengross, B
Howarth of Breckland, B
Moser, L
Thomas of Walliswood (Chairman)
Wade of Chorlton, L
Uddin, B

Witness: **Mr Sandy Grey**, examined.

Q1 Chairman: Welcome to the Committee and thank you very much for coming to give evidence. We are very grateful to you for agreeing to come and speak to us about the European Commission's proposal to replace the directive relating to timeshare and similar holiday products. We know that there have been many problems for UK residents and other people regarding the purchase of holiday products in general and the new directive is intended to improve the protection of the consumer with a wider range of products. There are just a few housekeeping points. We have got an hour available to us for this discussion. The session is open to the public although there are, as it happens, no members of the public here but it will be recorded for possible public broadcasting or web casting. A verbatim transcript will be taken of your evidence and will be sent to you shortly after this session. If you feel you need to alter it, please could you do that as soon as possible so that we know we are putting the right evidence out. You may submit supplementary evidence after the session. Sometimes we do not fully explore the points that we have raised and the witness wants to add something to what he or she has said and it is very useful to us to have any further thoughts you might have if we have not been able to cover everything during our hour. I

would like you to start by stating your name and your official title for the record. You may also wish to begin by making a statement and, if so, we would be happy to hear that.

Mr Grey: My name is Sandy Grey and I represent the Alliance of Timeshare Consumers in Europe which is a group of five independent timeshare organisations: Greece, Germany, France, Sweden and the UK. I am also chairman of the Timeshare Consumers Association in the UK which has been going for about nine years now so we have a fair degree of experience in the industry. I would like to make a five or six minute preliminary statement which will attempt to answer I think the first question which is the issue that was raised in the European Parliament a fortnight ago. A Member of the European Parliament stated very recently that timeshare is a criminal industry. I do not entirely accept that generality. There are some good people in the industry and there are some happy timeshare owners but unfortunately we have rather more than our fair share of rogues in the industry. These rogues got into the industry, or attempted to get into the industry, in the very profitable 1970s and 1980s but the response to their intrusion into the industry was totally different either side of the Atlantic. The industry leaders in America, which is a strong trade body formed in 1969 and supported by major hotel groups, evolved a strategy to control the rogues and to create a good long-term future for their own industry. That strategy included two key issues: one which was a very strong sub-regulatory regime and, secondly, they encouraged and promoted legislation to give consumer protection believing that will give a long-term strength to the industry. In contrast, we in Europe, and mainly based in the UK in those days, have been through a series of six trade bodies with almost no support from the major hotel groups and have failed to follow the US lead. Even now they appear to lack the will to have a long-term plan to develop the industry and let it grow. For example, they have a very ineffective code of conduct and it resists every single attempt to legislate on behalf of consumers. The results of those differentials between the Americans and the UK are quite stark. Americans claim to have 4.4

million timeshare owners and it is growing at about 10 per cent per annum. In Europe, with a bigger population than America, we have only 1.4 million owners and it is declining at about 3 per cent per annum. The lesson we have failed to learn from the States is that the grab-it-and-run philosophy runs out in time and I believe that time has probably already arrived. The consumer problems that are caused by these rogues fall into three basic areas: the buying of timeshare; the owning of timeshare; and the selling or getting out of timeshare. Let me give some quick examples of all three. Most sales are made to consumers whilst they are on holiday in a country not of their residence. For UK citizens it is usually in Spain or Portugal or the Canaries. In many cases they sign to get out of that very intense hot-house atmosphere, hard sell, three or four hours of intensive highly structured presentation, lies told by sales people, failing to put the key benefits of the purchase in writing so they are just verbal. For example, they will say that the purchase is a good investment, you will get all your money back when you are selling, which we will find out later is certainly not true. They say “Yes, you can go on holiday in August guaranteed.” Perhaps yes, but only if you do not mind sharing your bed with nine strangers. Then there is the development of loophole products where there is no cooling off period and no ban on taking of a deposit. The best known of these is what the Commission called long-term holiday products, we call holiday clubs, which look similar to timeshare, smell similar to timeshare, sold in identical manner to timeshare and priced the same as timeshare so the consumer is confused. The other loophole was the 35 month trial package which was invented by the industry in 1997 when the new directive became effective. It produced a lower cost avoidance of the law designed to get the consumer in the hands of the sales people when they went on holiday for the next 35 months to try and persuade them to buy the full-blown timeshare. The second area is the owning of a timeshare. There have been excessive fee increases. Two of the largest organisations in the industry both have increased their fees by double in less than ten years at a time when inflation has only

gone up by 35 per cent. With the declining number of owners, resorts are being closed for re-development as hotels, shopping precincts or whatever. There is a general squeeze to get rid of owners where the resorts are starting to decline. The final area where there are problems for consumers is what we call getting out. There is hardly any natural demand to buy timeshare. We produce a series of help sheets: one is called How to Buy Timeshare and one is called How to Sell Timeshare. For every one How to Buy Timeshare we send out, we send out 500 How to Sell, a clear indication of the lack of the demand. Many time shares, as a result, are worthless. These are the problems we believe this new directive should be addressing. What I have not mentioned, and do not intend to do so unless you wish me to, are the frauds that are operated within the industry and on the periphery of the industry which are not addressed and the directive has no intention of addressing.

Q2 Chairman: We will come to that point later on in our discussion. I want to start the questions by asking you to what extent you think the situation in Europe was improved by the 1994 Timeshare Directive and what have been the strengths but particularly the weaknesses, following on what you have been telling, us of that directive.

Mr Grey: The main changes of the directive, I am sure you already know, are to introduce a cooling off period.

Q3 Chairman: You mean the current directive, the proposed directive? I was asking about the effect of the 1994 directive.

Mr Grey: I was going to come on to that. The 1994 directive did not become law until 1997 which was a trigger point for quite a lot of action within the industry. It introduces a cooling off period, which we already had under UK law of 14 days. It introduced a ban on the taking of a deposit and it introduced a modest level of written disclosure of the purchase. From the point of view of the old directive, as we will call it, the ban on the deposit and the cooling off

period gave very good improvement to consumer protection. It may be an odd way of putting it but the industry itself claims that its decline started from that very day. It was suffering something like 50 or 60 per cent cancellations so obviously it was working. The weaknesses of the existing directive are three-fold: first of all, the loophole that was invented by the industry, the 35 month trial package which got below this three year directive limit on the law, is now the most intensively marketed timeshare product as opposed to long-term holiday product. It is still a major problem to us where people are buying with no cooling off period and no ban of deposit. The other loophole is the holiday club, which I mentioned already, using exactly the same techniques as timeshare and promising some marvellous availability of accommodation, marvellous availability of holidays, which simply do not exist. In some cases they are figments of somebody's vivid imagination. The negative side of the existing directive were developments of new products. In the days before the directive the basic product in timeshare was a fixed week of accommodation. You bought week 36, which is the last week in August, and you knew you had that last week in August in perpetuity. The new products were floating periods where you bought a choice in a red band, which is a high season band, but you had to book it each year so it was subject to availability. I am sure this will come up a number of times later this morning. The points scheme works in a similar way where the purchaser acquires points and uses that as currency to book accommodation year by year, again the problem subject to availability. A final downside or weakness of the directive was it has encouraged much more aggressive selling techniques.

Q4 Baroness Greengross: You have mentioned holiday clubs. I think I know what a holiday club is but it would help me if you could explain the term precisely. You have mentioned some of the problems that that 1994 directive threw up regarding those definitions. If you could clarify that it would help me.

Mr Grey: Would it help if I gave you a definition for timeshare and a definition for long-term holiday products in a simple way? Timeshare is effectively an acquisition of a legal right of use of accommodation. It is usually held in trust or by some form of real estate registration or public register as it is in Spain and Portugal. Technically once you have it, it cannot go away; it is certain. It is only certain in respect of the fact that you have to carry on paying the annual management fees to keep the rights maintained. Timeshare has a certainty about it and a feeling, a pseudo feeling, of real estate ownership, hence the word timeshare owner. Holiday club is a promise to book accommodation or a whole package through an agent. It is no different in any way from going to the high street or going to Thomas Cook and saying “I would like to go to Tenerife.” The only difference is that the sales people promise, when you join this club which gives you access to the booking system, you are getting very good choice, you are getting very good quality and you are getting big discounts, none of which are true. The holiday club is only offering the same as is available off the internet, teletext or the high street.

Q5 Baroness Greengross: Why “club”? What is the club bit?

Mr Grey: It is simply an organisation which you join when you pay the money. A holiday club is where you phone or write or email to book your accommodation. It is rather like a Christmas club in some peculiar way.

Q6 Baroness Greengross: There are no membership benefits at all?

Mr Grey: No, none at all.

Baroness Greengross: That is extremely helpful to me, thank you.

Q7 Baroness Gale: You have already talked about the present cooling off period of ten days and the proposal to take it to 14 days. You have said you think it could easily be changed to

the 28 days. Could you tell us what are the problems with ten days? Could you say why you think it would be better 28 days and do you think that could have a detrimental impact on the future development of timeshare?

Mr Grey: Can I go back to the beginning of the history of the cooling off period. The first law to introduce a cooling off period was the Timeshare Act 1992 introduced in the House down the corridor. It gave a 14 day cooling off period and that was 1992. The 1994 Directive, which became the 1997 law in Europe which is the current directive, went backwards to a ten day period at a time when it was quite clear people were taking longer holidays. It is now becoming apparent people are taking even longer holidays. Point number 1 is that we must protect people not only today in the current holiday time pattern to give them time to come and think about it - and I will come back to that in a minute - but the Commission did say they wish to future-proof the new directive. Future-proofing must allow for longer holidays which people are taking throughout the whole of Europe. Coming back to the point I made earlier, the purchase of timeshare is almost always made overseas. It is nearly always made on the first or second day of someone's holiday: white knees, red face, recognised very quickly as having just arrived. There is a long time before their brains are back in gear and back home and able to do research and ask us or other people questions about what they bought. That time now is quite clearly not enough. We get a number of inquiries from people who say "I signed up on so-and-so a date" and I say "You have passed the time". "Oh dear, we did not know." 14 days is already inadequate and will become more and more inadequate as the years go by. In the Commission's proposals last year a range of periods were proposed: 14; 21; 28 days, which is what we proposed; one or two people proposed 30 days; and one person actually said one year but that is a bit impractical.

Q8 Baroness Gale: Do you think you will build up support for the 28 day proposal?

Mr Grey: I would like to think the Commission would move from 14 at least. The further they move the more beneficial it will be in the longer term. An issue that may come up later on is that the existing directive should have been reviewed five years ago. If we delay reviewing the new directive by a further five years, making it ten years, we are well into longer holiday periods which 28 days would cover but not 21 or 14.

Q9 Baroness Greengross: What does the United States do about that?

Mr Grey: The United States has different laws in each State: five days, ten days, and I think one is 13. As the bulk of the people in the United States are from the United States they are nearer home and do not have this problem of going away for a fortnight and coming back again so it is less of a problem to them.

Q10 Baroness Howarth of Breckland: I am not clear why the industry are so fiercely against the extension except that it gives people time to withdraw on reflection.

Mr Grey: If you asked the question what is the effect of a longer cooling off period going to be, the answer is for the timeshare industry it will have a detrimental effect short-term. If they can revise their policies and practices for selling so that people use a longer cooling off period as a marketing tool and people are comfortable with this, it will have a beneficial effect. As far as long-term holiday products are concerned, the cooling off period will kill them with sighs of relief all around.

Q11 Lord Moser: On the withdrawal period point as part of the cooling off point, I now picture this poor family in Tenerife or somewhere and there is a cooling off period, how can they possibly get out of it or perhaps they are not even there yet. They got into it because of the problem organisations that you pictured so well and demand is declining like mad. In asking about the withdrawal period I also want to ask you in general. Listening to you, my

inclination would be the best thing would be to close the whole thing down and not to have timeshare any more because of all these problems. There is a very steep decline, wealth is increasing all over the place so people might buy things in total rather than time sharing, but presumably you are arguing that timeshare is a good thing if only it were properly regulated. Could you talk a bit about the bits of the withdrawal period other than cooling off which you have dealt with in giving information and all that but in the context of why it is necessary to rescue this whole business?

Mr Grey: I do not think I agree entirely with Lord Moser's view. May I state a view on timeshare. My view is that it is a valid holiday product. It offers a facility for people to get good quality accommodation at prices lower than they would normally have to pay through owning their own villa or whatever. The principle is right but the problem has been the people in the industry. There are too many rogues in Europe. If by legislation and other means we can discourage the rogues, perhaps ending up with a smaller industry than we currently have but providing the original image of the product, quality of accommodation, just pay for the bit of time you wanted to use, I would fully support that. How you tell people about the cooling off period I think was your question.

Q12 Lord Moser: How they can withdraw.

Mr Grey: The UK Act has a very good piece in it, only amended five years ago, which required the cooling off period to be clearly disclosed in print no smaller than the largest print on the paper on the front face of the purchase agreement next door to where people sign which says very clearly you have until X, Y, Z date to cancel the agreement. That is an excellent idea and the directive should adopt that as well. At the same time, if we are going to say in the purchase agreement that there is a cooling off period we should also say in the purchase agreement there is a total ban on the taking of a deposit. These are the two key lock-

in issues for purchasers. If they are disclosed clearly to them in the purchasing point they will have much more ability to choose what they want to do.

Q13 Lord Moser: On the more general point, you talk about a smaller industry across Europe. Is that what you have in mind, having got rid of the problem organisations?

Mr Grey: I am trying to project what I see is happening in the current industry. It is in decline. There is about eight or nine per cent less owners now than there were five years ago.

Q14 Lord Moser: You attribute that to the problem organisations?

Mr Grey: To a great extent, yes.

Q15 Lord Moser: Not to social trends, financial trends.

Mr Grey: No. If you look at America, it is really growing. It can be done but we are just doing it wrong.

Q16 Lord Wade of Chorlton: Clearly the reason why there is decline is the industry in this country is not even controlling itself. It is not taking any action to try and make the industry more acceptable so that it would grow. Why is that? Is it an industry that attracts unscrupulous people or is it an industry that has not actually got within the hands of honourable companies who can see the growth opportunities and want to run it effectively? Normally if there is a business that can make money for somebody, generally they want to run it well because by running it well it grows and you get consumer confidence in it. It is rather odd that people should want to run an industry in such a way that people want to use it less and less.

Mr Grey: That is absolutely right. The problem comes back to the fact that the industry has never got itself together in a coherent, strongly led organisation. It has had six trade bodies. It has not got the support of the big powerful medium which is the hotel groups in Europe where

it has in the States. Nobody has taken the industry by the scruff of the neck and said “If you want to be here in ten years time earning decent profits, you have to do it this way.” It seems to be short-term-ism, that is rogue-ism, that is grab-it-and-run-ism. I do not see any solution to it other than legislation to wrap the knuckles so hard they have to change their policies. That is why I am hopeful the directive will do exactly that.

Q17 Lord Wade of Chorlton: I wanted to raise points on the information provision of the directive. Could you explain how the information obligations in the proposed new directive differ from those in the existing directive and would you choose to add any items of information or to consider any to be superfluous for the consumer?

Mr Grey: The new directive introduces a little bit more requirements on disclosure of benefits but not very much; it is a marginal move. Our view is that there should be much more profound precise defined disclosure. For example, there are no requirements in the new directive to say precisely what a person is purchasing. The word “exact” is used in the new directive. “Exact” is a phrase which is interpreted by traders in a totally different way than by consumers. What I would like to see is guidance notes by the directive to state that the following items should be included in the disclosure. Availability is a big issue. I joked earlier on about sharing a bed with nine other people if you go in August because everybody wants to go in August and there is not the capacity. It should be precisely spelt out in the document whether you can or cannot go in any high season. Secondly, I think there should be a disclosure as to the current value of what is being purchased. I know it is an odd thing to do. If you buy a motor car you do not have to say that it is only going to be worth 70 per cent less tomorrow morning but with timeshares now worth sometimes 5 per cent of what they were when originally bought, sometimes worth nothing, I believe consumers must be given that information. The third area is drifting into another area which I hope we will be discussing later on and that is ownership rights. I believe the directive should state very

clearly that owners do have control over the standards and operations and costs of their club or resort. They do not at the moment and that is one of the main reasons why there is this distress amongst owners, massive increase in fees and owners just walking away.

Q18 Lord Wade of Chorlton: Do you think that the government, through the Office of Fair Trading, could have been successful in informing consumers of their rights in the existing directive? What further things could the UK government do to get more information on these issues across to the consumer?

Mr Grey: The Office of Fair Trading and the DTI before them made reasonably good efforts to educate consumers about their rights within the timeshare business. The old story of financial constraints keeps coming up of course. My own belief is that the targeting of education should be done very precisely and the best place to do it is when people are flying away to Benidorm, Tenerife or wherever, with adverts on the back of flight magazines, leaflets in the airports and so forth. That was done to a limited extent but it was done only as a campaign and, as you know, campaigns last four or six weeks and then die. If the OFT would operate a campaign over two or three years, maybe lower key, aimed precisely at that area I believe the education would improve quite considerably. We could look at how the Swedes do it. They have half an hour a week of school education on your consumer rights.

Q19 Lord Wade of Chorlton: Across a whole range of issues.

Mr Grey: Yes, it is a broader issue I know.

Chairman: They seem to be reforming the education curriculum at the moment so maybe you should make your input to the correct department.

Q20 Baroness Howarth of Breckland: Do you have relationships with other consumer organisations? Have *Which*, for example, run anything on this in their magazine? It maybe quite middle class but it does have a circulation.

Mr Grey: We work quite closely with *Which*. In fact I am helping at the moment with an article they are producing for next February on timeshare. I have helped them with the previous articles over the past four or five years. *Which* decided about two months ago that their legal advice service, which is an excellent service, would not touch timeshare. I inquired as to why and the word “aggravation” came up. The problem being that a single consumer, with a single timeshare problem worth £3,000 or £4,000 requires an immense amount of effort to battle against the rogues who will not answer letters, not respond honestly and not to respond directly. *Which* legal services found out to their cost it was not worth their while. It is a frightening thought. On a similar parallel basis with some lawyers if you walk into a law firm and say you want to talk about timeshare your feet do not touch the floor as you go out. It has a reputation.

Q21 Earl of Dundee: Returning just for a moment to the rights of withdrawal, what is your view of the facility within the directive which allows Member States to apply their own more stringent national provisions?

Mr Grey: We believe that the new directive should be harmonised totally throughout Europe: totally in countries and totally in its terminology. The only area where the harmonisation is not in existence so far in the proposed directive is in the form of the cooling off period, how it is described, how it is defined and how you make the application to cancel - modularity as they call it. I see no reason why it should not be harmonised but let me give you a reason why it should be. At the moment the consumer has a mismatch of timeshare laws. In most countries there is a ten day cooling off period, in the UK there is 14, in Belgium it is 15. The consumer does not know what cooling off period would apply to his situation. As most

consumers buy outside their country of residence, we believe that everybody should know exactly what their rights are wherever they are. That is my belief on harmonisation. I do not see any reason why the directive should not define, first of all, day one of the cooling off period. I am suggesting, a bit tongue in cheek, it should be the day that the consumer receives a counterpart copy of the agreement at his home address, i.e. it starts from the point at which he gets home; secondly, that the cancellation can be in any written form which has proof of posting, which could be fax, email or registered letter; thirdly, provided it is posted within the 14 day, preferably 28, period that would satisfy the cancellation and the agreement would be null and void. It is quite simple.

Q22 Earl of Dundee: I hear what you say about the case for harmonisation, nonetheless that is not going to happen. With the new directive when it comes into force there will not be harmonisation. The United Kingdom, for example, within the context of the new directive can choose to apply its own more stringent national provisions. Is that the case?

Mr Grey: Yes. I am treating the directive as a draft not as a final product. I have had information from within the Commission that they will hear and attend to suggestions such as these, hence I am sure this is the purpose of the hearing today. I am not entirely convinced I agree with you. I believe the Commission could be persuaded to go for total harmonisation. They believe in it themselves and it is not very clear as to why they have tolerated one element within the whole directive that is not harmonised.

Q23 Earl of Dundee: At the same time, would you perhaps adopt, and correctly so, a paradoxical position? On the one hand, as you have explained to us, you would favour harmonisation and what you would like to see, as you have also drawn to our attention, is a package of changed measures. You would like at least 28 days for the right of withdrawal. You would like a clear and unambiguous ban on paying deposits. You would like things put

down clearly in writing so that the consumer is properly protected in a way in which he is not. In the paper you write and what you have been telling us today, that is one of the defects of the 1994 directive perhaps. Following on from that, you begin by saying let us have harmonisation, let us address the defects within harmonisation which applies to all countries in the European Union. Secondly, however, if that is not going to happen, one way forward would be, although it is a tedious and rather circuitous way, nevertheless in the circumstances a method to encourage certain States, such as the United Kingdom here, to adopt good practice which can then filter through to other States who agree this is how they should proceed. A certain conformity to good practice, say within Germany and France, might be evidence which would cause harmonisation by the back door or eventually on the way to what should have happened in the first place.

Mr Grey: Our plan A is total harmonisation with all the goodies built in. We recognise, exactly as you say, that is possibly not going to happen. Plan B is exactly as you say, that if we can persuade the DTI, who are the authority in this matter, to introduce superior consumer protection in the area where they are entitled to do so and perhaps use that as argument throughout the rest of Europe. That is plan B if we do not win plan A.

Q24 Chairman: I do not know how much you know about the different attitudes of different Member States. It might be that some Member States are quite keen to get a high level of conformity and a high level of standards, as it were, of how to conduct this business and others might be influenced by internal pressures to be less keen on these high levels. Do you think there is a problem about that?

Mr Grey: Yes, there certainly is. Can I put some perspective on this situation. The largest number of timeshare owners in Europe are in the UK, the second largest are in Germany, the third largest are in France and then the numbers decline around the various other countries. The largest area of purchase of these owners is in Spain, and I include the Balearics and the

Canaries within that; secondly, Portugal; and then generally throughout the rest of Europe. In the Commission meeting in July of last year it was interesting to see who turned up and who did not turn up. We were very disappointed to see neither anyone from the Spanish government nor the Portuguese government attended, as if they were disinterested. To support that point, the 1994 directive was introduced on the 30 April 1997 throughout the whole of Europe except in Spain who took 21 further months to introduce it and even then amended it, contrary to the statement in the directive, by allowing a deposit to be taken by a third party. The biggest problems we have are with Spain failing to enforce the law, creating their own softening of the impact of the law and clearly, at the moment, not showing a lot of interest in consumer affairs in respect of timeshares in the future.

Q25 Chairman: It is a conflict between the consumer populations, like our own northern populations, and the supplier populations which, in the case of Spain and Portugal, are less willing to limit the freedom of the supplier to supply what he or she wants. That is the contrast, is it not?

Mr Grey: Yes.

Q26 Lord Moser: Does that imply that the problem organisations are not evenly spread throughout Europe?

Mr Grey: May I have two minutes to answer that question. Can I talk about fraud because that puts rogues right in perspective. The two largest fraudulent operations are the resale scam which is where a timeshare owner is telephoned from Spain by somebody who says “We can sell your timeshare for £5,000 or £6,000” when it is only worth £500 or £600, and then asking the owner to pay them some money, anything up to £1,000, and he hears no more. That has been going on for seven years. There are about 1,300 companies, to our knowledge, in the business and the police in Spain take no action whatsoever. Interestingly the police

announced in October last year they had arrested eight people for running 300 of these resale scams. I phoned up the policeman I know in Malaga and said if you give me the names of the 300 companies I will give you a long list of their victims. “No, I cannot do that” he says. It later transpired that the victims were all Spaniards. The police are taking action on behalf of their own natives but do not seem to be interested if a Brit or a German or a Frenchman gets caught. I think thereby lies a big problem. That is right the way through not only the fraud side of the industry but also the rogue where it is perhaps not a fraud but breaking of the law, the Timeshare Act for example.

Q27 Lord Moser: Are there problem organisations in this country?

Mr Grey: A few but not very many.

Q28 Baroness Gale: I have two questions on the advance payments. How best do you think consumers could be protected from demands of advanced payment before the cooling off period? What extent have the demands caused a problem for the consumers? Could you explain how resale works in the timeshare market? Do you think there has been a big problem for consumers who made advance payments in this aspect of the market, the resale side?

Mr Grey: The first question is how can consumers be protected in respect of making advance payments? I believe that by making it very clear on the purchase agreement, as I suggested earlier, no advance payment of any sort, and the directive is pretty good in the phraseology they use in that respect, may be taken during the cooling off period. I can see no other way, in the way in which the directive is couched, to enable that to happen.

Q29 Baroness Gale: How does the resale market work?

Mr Grey: There is confusion on the subject of resale and that confusion has drifted into the Commission. I hate to say this but I do not think they fully understand it. There are two transactions that we talk about. The first transaction is the sale by a trader to a consumer of either a timeshare right or a long-term holiday product. The bulk of those transactions are now of a product which has been pre-owned. Most timeshare weeks have been owned by somebody beforehand and they are now being sold for a second, third or fourth time by a trader to a consumer. The confusion arises by the fact that the trader may call that a resale, possibly is a resale, but our view is that any transaction, irrespective of the age or definition of the product, should be covered by Annexes 1 and 2 which cover trader-to-consumer products. The other side of the coin is where a timeshare owner wishes to sell his timeshare to either a trader or through a trader as a broker. That should also be covered but separately under Annex 4. At the moment the directive muddles those two together and I have written the Commission to say please explain.

Q30 Baroness Gale: What you are suggesting is a first time sale of a timeshare would be covered under the legislation and then the resale should be covered by the same legislation?

Mr Grey: No. Can I explain it in a slightly different way? The concept of a timeshare week is presumably fully understood around the table. Most timeshare weeks have been bought before, maybe twenty years ago, and the owner has either gone away, handed it back to the resort or whatever and so it is sold again by the trader to a consumer. It is rather like a second-hand car to be sold on and on. I am arguing that the transaction where a trader sells a timeshare or holiday product to a consumer, irrespective of whether it is new or well used, is covered by Annexes 1 and 2. The word “resale” is only applied to the other side of the coin where the owner is selling to or through a trader; it is consumer-to-trader transaction.

Chairman: I am sure we will get more familiar with these ideas as our inquiry continues. You have met us when we are just starting to understand these matters. We also have an excellent adviser who will be able to explain if we have any further questions.

Q31 Baroness Howarth of Breckland: I want to talk about enforcement. I was very struck by the way you described the industry and its incapability of developing a voluntary code of any sort. In the light of that, there is enforcement proposed in the new directive which is crucial to its success. We all agree with that. What are your views on the provisions relating to judicial administration and out-of-court redress in the context of how you describe the industry? At the same time maybe I can ask the next question as they are linked. How effective do you think the various competent authorities have been in enforcing the existing timeshare directive in countries of particular concern to your association, which links again to the issue you raised on fraud I believe?

Mr Grey: There are three questions there. Can I deal with the last one first, which is how effective the existing authorities have been. The Office of Fair Trading and the Trading Standards Office are the primary authorities within the UK for the Timeshare Act and directive and, in our view, have been pretty successful. We know of very few cases where the Timeshare Act in the UK has been breached within the UK. It is universally breached outside the UK and it does apply to a UK citizen in the EEA countries. So far the Office of Fair Trading and Trading Standards have done a pretty good job and I do not see any reason why that should change in the future. As far as the judicial side for the future is concerned, coming back to Lord Dundee's comments about lack of harmonisation, there is not enough precision as to what a breach of the law should incur in the forms of fines or whatever. We would like to see a menu system, a menu of events and fine, quite clearly stuck up on the wall so people know if they tread over that line that is what it will cost them. It will be a knuckle wrapping exercise I hope it will work. That is missing and that should be introduced. An out-

of-court settlement is an interesting exercise. A lot of people commented that we ought to have an EU-wide timeshare ombudsman. We have a very good example of an ombudsman service working effectively in the UK and that is the financial ombudsman service. It works very well, in our view, and its strength is that they act quite quickly, they seem to have a clear understanding of their obligations within the laws that work, primarily the Consumer Credit Act, and it does not cost the consumer anything. If we could introduce a similar type of ombudsman service throughout Europe, that would be an excellent move. The problem would be enforcement. The financial ombudsman service can enforce it through the fact that there is now enforced registration with the service. From a timeshare point of view that would require licensing so that the ombudsman can either threaten to withdraw a licence or penalise a company on the threat of withdrawing a licence. We know that the Commission is not very keen on the idea of licensing. I know it is complex and expensive but it might well solve a lot of not only redress problems but also act as a deterrent and replace the judicial problem.

Q32 Chairman: Thank you for those answers. I have one more question on our list which is coming back to the level of sanctions imposed by Member States for infringements of the current directive. It seems to me from what you have been saying that the situation is a little wider than that. It is a question of how you get justice for citizen A who has bought or not bought something in country B. We are now talking about cross-border justice of some sort or another. Could you expound a bit more on these problems? You have told us quite a bit about it. I must confess I was on Laws and Institutions, the other sub-committee of this select Committee some years ago. I am no lawyer but what I did get was a clear understanding that cross-border judicial pursuit of people who are deceiving you if it is a civil case is not that easy even today in the European Union. That is the problem in this respect: getting a case or getting compensation across a boundary is much more difficult. Is there an approach in the

proposed legislation that would sort that out or would the consumer have to start learning about how these cross-border efforts to get justice work in the broad sense before they could tackle in the particular sense?

Mr Grey: I would hate to think the consumer would have to do it himself in Spain or Portugal. The Office of Fair Trading have set up arrangements now, a working liaison - and I am sure Mike Haley will tell you about it - with the Madrid police which means that the problem area, which is Spain, can now be addressed from Central London and that might well help. The Office of Fair Trading do not deal with individual situations but only with groups but at least that is a move in the right direction and does take the power of the consumer in the UK across into the Spanish area. The other interesting thing is that a number of consumers have grouped together to take action themselves at their own expense. In the John Palmer case, when he was locked up in 2001, we set up a group action to claim compensation and were rewarded with a very substantial sum, which has not been paid yet but we will wait and see on that. Secondly, a group of owners in a resort in Lanzarote, called the Lanzarote Beach Club, have initiated a criminal action in Lanzarote against eight people who they believe were acting fraudulently with the intention of following that up with a compensation claim when the case comes to court. The third example is in Paris, France, Club Systeme Vacances, which was a fraud run interestingly by a Brit in France. Our French colleagues did exactly that: they set out to make a compensation claim in the Paris courts on behalf of the victims.

Q33 Baroness Howarth of Breckland: I thought it would be very useful if we had hard examples. It is going to be quite sensitive in terms of our evidence in relation to other EU partners. If we had examples they would be extremely helpful.

Mr Grey: Would you like me to put this bit of information in writing to you?

Q34 Chairman: Yes, that would be very helpful. It might have to be anonymised in some way. We will have to think about that. It is evidence we want of what can happen and how group action can help to assist individuals in this kind of thing. Another question has come to my mind. Is there a huge difference in the fines, or whatever it is, that can be applied across the European Union because of the existence of separate legislative provisions as well as the European directive?

Mr Grey: I am afraid I do not know. As it happens so seldom, we have no experience of it.

Q35 Chairman: The difficulty is getting anyone punished is what you are really saying?

Mr Grey: Yes. The Office of Fair Trading has a process of frightening the rogues off and it usually works in the first part of the process.

Q36 Lord Wade of Chorlton: Going back to the point you were making about the decline in the industry, when you are talking about decline do you say there are less people now out of the UK or across Europe who own timeshares or are there fewer people going into the timeshare, in other words is the rate of growth down or the actual number of people who own timeshares down?

Mr Grey: In simple terms timeshare has a finite life for an individual. They may own it for 15 or 20 years, often buying at 50 and getting out at 70, so we have wastage, and wastage for many other reasons as well. There is always about 10 or 15 per cent of the population of timeshare owners going away. Up until about five years ago that wastage was being replaced by sales. As sales have declined that wastage is not being fully replaced and we now have a discrepancy of 2, 3 or 4 per cent between people walking away and being topped back up again by sales.

Q37 Lord Wade of Chorlton: There are fewer people now interested in investing into a timeshare of any kind?

Mr Grey: I would not like to say that is the case but certainly there are fewer people involved as owners of timeshare than there were five years ago.

Q38 Lord Wade of Chorlton: Are you a timeshare owner?

Mr Grey: I was until about six months ago.

Q39 Lord Wade of Chorlton: Did you come to a period where you did not want to do it or did you come to a decision?

Mr Grey: A rogue took over my timeshare resort and I did not want to get involved.

Chairman: We have had an extremely interesting and very useful introductory session with you. You have told us a lot of things that some of us knew but I do not think any of us knew all of it. It has been very helpful and thank you very much for coming before us. We are already going to get something from you, the cases that you drew to our attention, but if anything else should occur to you within the next few days which you think would be helpful, bearing in mind the trend of our questions, we would love to hear from you. That would be very welcome.

Q40 Lord Moser: Any statistics on the whole industry I think we would appreciate.

Mr Grey: I brought with me our report of September 2005, copies for all of you, which does contain the statistics you need and if there are any missing please ask and I will provide them.

Chairman: Thank you very much for coming before us.