Timeshare in Europe – 2004
- an industry at the cross roads

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Summary

The timeshare industry in Europe is at the cross roads – if it fails to take prompt action to remove anti-consumer practices the current decline in business could be fatal.

- Consumer confidence in timeshare in Europe has collapsed. Many consumers now regard timeshare as a scam, resulting in a major downturn in new sales.
- A substantial proportion of owners are trying to get out of timeshare because of dissatisfaction with increasing costs, failed promises and age.
- Owners are being driven out by developers eager to realise the enhanced real estate value of the property.
- This has resulted in the number of timeshare owners in Europe in 2004 being fewer than in 2000 – a reduction which is in stark contrast to the United States where owner numbers are still on the increase.
- The industry has failed to respond to quality and price competition and blames external factors outside its control for the downturn in business.
- Half of the accommodation previously designated for timeshare use is now used for purposes other than timeshare
- Fraud is endemic and now accounts for over 20cents in every € spent by consumers.
- The industry has continued to ignore the warning signs for many years and is still making no real attempt to remedy the faults that are causing the industry decline
- Further legislation to protect consumers is unlikely to be effective and could actually accelerate the decline.

“Europe’s market is flat and, in some cases, down, and the future business opportunities will be found in China and even in the Middle East” (Craig Nash, Chairman and CEO, Interval International - October 2004)

It is difficult to dispel the notion that the timeshare industry in Europe has dedicated the last 25 years to the systematic "milking" of consumers and is now reaping the rewards.

Introduction

Holiday timeshare started in Switzerland (by Hapimag, still a leading operator) in 1967 but did not take off until the early 70's in the USA when sales of holiday condominiums stagnated.

The product returned to Europe (Scotland, 1975) and soon spread into all the holiday areas, notably Spain, Canaries, Portugal and Italy. Now timeshare accommodation is available in almost every country in the world where tourism flourishes, with Asia the most rapidly expanding region. There are 5,400 resorts worldwide, 1,300 in Europe and nearly 7million owners worldwide, 1.3million in Europe

Development in the US, regarded as the most mature of the regions, continues at a healthy pace, but development in Europe slowed from 1997 (when the new Timeshare Directive was introduced) with ownership numbers in Europe now lower than they were four years ago.

This report, the third by the Timeshare Consumers Association (TCA) in four years, attempts to identify the factors behind the rapid decline in the fortunes of timeshare in Europe and proposes a number of actions designed to recover the position of the industry as a desirable quality niche holiday product.

This report is hampered by the lack of reliable statistics. For an industry so flamboyant in promoting itself to the public, it is noticeably reticent when it comes to publishing meaningful information about its operations. This report has had to rely on information culled from a wide range of sources, many of which are not necessarily collected using the same criteria.

TCA receive around 10,000 contacts from consumers each year and TCA estimate that they are aware of approximately 5% of timeshare complaints from UK citizens. Much of the evidence in this report is based on these complaints.

The report covers geographic Europe – marginally larger than the current 25 member EU - and includes a few non-EU countries such as Switzerland, Norway and Turkey but excludes North Africa and the Middle East.

Products

There are two primary product groups – '**timeshare**' and '**timeshare-like'** products.

The phrase "timeshare-like" recognises that products such as holiday clubs include many of the elements of timeshare – use of quality self-catering accommodation; a capital sum paid up-front – but lack other important elements, notably legal protection of purchasers and certainty of delivery. It is commonly held that timeshare-like products only evolved to circumvent what was perceived by operators as restrictive timeshare legislation.

The terminology used by the industry is (probably intentionally) confusing to consumers. The word "timeshare " is now seldom used and combinations of "Vacation", "Seasonal", "Holiday" "Club", "Ownership" etc. are more prevalent. It has become impossible for a consumer to readily identify whether the product they are being offered is timeshare or timeshare–like from the name

Timeshare products

Timeshare has always suffered from an inherent weakness.

Although the accommodation allows for up to 52 owners in a year, the natural consumer demand for holiday accommodation is concentrated into a much shorter season, often only 30 weeks. A developer has no difficulty selling these peak season weeks but very great difficulty selling low season weeks.

To sell all 52 weeks the developer needs to persuade nearly all purchasers that they will have access to peak season weeks. To do this the ownership structure has progressively been changed to a “floating” (or points) scheme which allows the salesman to promise that the purchase of a floating period (or points) will ensure availability of a peak season week.

The failure to deliver this promise is at the core of most consumer complaints.

The trend over the past 10 years has been “fixed weeks >> floating weeks >> points clubs >> holiday clubs >> rental”

Fixed weeks

The owner has the right to use a specified week in a specified accommodation unit in a specific resort for a period of years, conditional on the owner continuing to pay the annual fees. Fixed weeks are popular with owners who want to be sure of getting their holiday where and when they chose. If an owner wants to use another week and/or another resort they are able to exchange their “ownership” in any year through an exchange company. This ability to exchange is a key strength of the timeshare system.

Ownership of fixed weeks is in decline as operators force a move towards floating weeks or points clubs.

Floating weeks

The owner has the right to use a week (the actual week to be booked each year) selected from a seasonal band of weeks in a specific resort. This enables traders to sell more weeks having made the consumers believe that they would automatically get the week of their choice.

Floating weeks suffer from the same problem as all booking systems in that an owner cannot be certain of getting the exact week they want each year which is unsatisfactory for those owners who must have high season weeks because they have school age children etc.

Multi-resort clubs

A consumer joins a “club” which has access to a number of weeks of accommodation in a number of different resorts. The club member does not have any rights attached to any specific week/apartment/resort.

This is again a booking system with its inherent weakness of any booking system but possibly offering cheaper means of exchanging than using an exchange company.

Points Clubs.

There are around 140,000 members of points clubs. Points clubs have been the only timeshare sector to show real growth over the past 5 years.

Points clubs come in three varieties:-

- Pure. Members of a “pure” points club have no direct legal rights to the inventory which provides the accommodation for club members.

- Ceded. Members own (or continue to own) a week (fixed or floating) of timeshare which is temporality ceded (loaned) to the points club.

- Mix of pure and ceded .

Points clubs provide even less opportunity to take holidays than floating weeks – “we haven’t had a holiday for years” is becoming a common complaint.

Fractional Ownership

Considered by many not to be “timeshare“, fractional is essentially a floating weeks timeshare system but utilising larger units of time such as two months ownership each year.

The owner has the right to use a number of weeks each year in a specific resort on a booking system. Most fractional systems involve only a few owners in an apartment, each owning ¼ , 1/6/ 1/8 etc. of the year.

Fractional is seen as a stepping stone from timeshare to outright holiday home ownership. Fractional schemes have been in existence for many years but are only now becoming linked to the timeshare system as timeshare operators adopt them – including exchange companies.

Fractional differ from conventional timeshare in that fractional :-

- Is usually only based on a single property
- Has different legal structure (usually a company or multiple legal ownership)
- Is not involved in exchanging

Timeshare-like products

Holiday clubs.(aka. travel clubs, vacation clubs etc.)

There are some 250,000 members in approximately 100 holiday clubs in Europe – most of the clubs are bogus and do not deliver any holidays, resulting in only 80,000 holidays being taken each year by holiday club members.

But membership of holiday clubs is increasing rapidly, to the detriment of conventional timeshare sales

Members of a holiday club are promised that they can book accommodation (and sometimes flights, car hire etc.) at heavily discounted prices which are claimed to be well below the high street level. But many holiday clubs are bogus and do not exist, being simply a name on a letterhead. The sellers are acting fraudulently. Those that **do** exist vary greatly in their performance.

The largest holiday club operator – Timelinx SA in Spain – claims over 25,000 members, which puts Timelinx into the top ten companies in Europe. It also claims to have some 225,000 weeks available for use by its members.

The best holiday clubs do provide accommodation (and flights etc) but at prices which are, at best, only marginally lower than the open market prices and seldom good value for the money paid for the membership. One reason for this is shown in Appendix 4 which shows that only a tiny element of the purchase price goes to delivering the service.

The worst holiday clubs provide little if any service but continue to exist to give a degree of credibility to enable the marketing companies to continue making sales

About 25 holiday clubs (real and bogus) are internet-based where the "member" purchases a PIN number to access the booking facility. Their performance is no different from their "land" based counterparts.

The general view is that holiday clubs were "invented" to circumvent the timeshare laws – mainly the laws banning the taking of a deposit and the requirement to provide a cooling-off period.

Many timeshare developers utilise holiday club members to fill empty accommodation and to provide them with fodder for their salespeople – but publicly developers claim that holiday clubs are "taking the bread from their mouths".

Accommodation

There are an estimated 1,300 timeshare resorts in Europe with a total of 75,000 apartments providing 3.75million weeks of accommodation. This number is less than four years ago as some resorts have ceased to provide accommodation for timeshare owners and now operate as package tour destinations or are used by independent renters or holiday clubs. An increasing number of resorts have been sold to realise their high real estate value. One extreme example of this decline is the reduction of timeshare resorts in Belgium from 5 to just 1.

Over one third of accommodation originally designed for timeshare use is currently "unsold". This average marks a wide divergence ranging from resorts with more than 60% of their accommodation unsold to a points club which is suspected of having more members than accommodation to provide to those members.

The average resort will have sold almost all of the high season period; the greater majority of shoulder season but only a small proportion of low season weeks.

A number of resorts have been closed down to be sold off for their real estate values, others appear to be following a similar process. The realisation of the real estate value of a resort now appears to be a key activity within the industry which, if continued at the present pace, would see a reduction in the number of resorts exceeding 2% a year.

See Appendix 1 for a detailed breakdown of how timeshare accommodation is used and Appendix 6 for an example of the mix of uses of accommodation

<u>Ageing resorts</u>

Many resorts are 20 or more years old and very few are less than 10 years old. Where the operators have routinely maintained the resort to keep it in modern, good condition, a mature resort does not show its age. Resorts which have a properly managed sinking fund system are expected to remain in modern, good condition for many decades and certainly the full length of a "lease" of up to 80 years

But where operators have failed to routinely maintain – often taking money from owners for the purpose of maintenance but failing to apply the money for that purpose – the resorts are beginning to look and feel shabby.

<u>Dead and dying resorts</u>

TCA is aware of over 50 resorts which have either recently ceased to be timeshare resorts or appear to be close to being closed.

<u>New accommodation</u>

New accommodation construction is continuing, but at a very low level. A trade statement said that they expected 9% new build in the next ten years – less than 1% a year whereas the build rate ten years ago was at least 10% every year. Most new construction is at the upper quality end of the market.

<u>Quality rating of resorts</u>

There is no independent quality rating for timeshare resorts.

RCI and Interval International each have their own, incompatible, quality rating systems and there are suspicions amongst consumers that some resorts are given higher quality rating than their condition deserves to enable the developer more opportunity to make sales.

Competition

Twenty-five years ago timeshare had a strong Unique Selling Proposition (USP) - **"the certainty of top quality, spacious, holiday accommodation worldwide at reasonable prices"**

Over the years this USP has been eroded by:-

- failure of operators to maintain standards allowing the competition to catch up in terms of quality
- failure of operators to ensure a healthy secondary market so that owners can get a big proportion of their purchase money back when they sell.
- failure of operators to keep annual costs at a reasonable level allowing competitors to undercut timeshare prices.
- Failure of operators to effectively promote a letting programme **on behalf of their owners** at their resorts, so that owners unable to use their weeks, for whatever reason, can recoup their management charges.

Further competition has come from:-

- holiday clubs
- internet and Teletext rental services
- low cost flights, often linked to rental accommodation, available on the internet
- improved standards of hotel accommodation
- apartments for rental [quality has improved to timeshare standard but rental is cheaper than timeshare maintenance fees and/or exchange fees]

The Industry

The number of traders in the industry is slowly reducing as mergers and business failures take their toll. Estimating the number of traders in the industry has been very difficult but is believed to be around 1,100.

The industry is very fragmented - the largest 20 developers have 45% of the ownership base, leaving nearly 850 developers with the remaining 55% of owners. The largest developer (Hapimag) has 136,000 owners but there are many resorts with under 500 owners – the smallest identified has just 50 owners.

Detailed analysis of the industry is in Appendix 2

Very few of the major companies in Europe publish accounts relating to their timeshare activities from which a reasonable assessment of their performance can be judged. All the rest have companies in a number of jurisdictions where accounting and publishing requirements are minimal. Multiple companies (one group has over 30 "subsidiary" companies) are used to disguise the true trading breakdown. It is also very difficult to identify the revenue and profits made from separate activities such as sales and management.

However, from a combination of published and unpublished information it is possible to calculate that sale values have declined by between 30% and 40% over the past 4 years although sales by companies acting fraudulently appear to be holding up.

A survey of companies operating in Spain disclosed a wide range of registered office addresses including addresses in Spain, the Isle of Man, Jersey, Gibraltar, Panama, Seychelles, Bahamas and the British Virgin Islands.

A substantial proportion of the profits generated within Europe are siphoned off into jurisdictions with low corporate taxation levels – a major loss of revenue to European economies.

Multiple companies also compartmentalise operations to avoid responsibilities – a marketing company may be telling lies to make sales whilst the bulk of the profit is passed to another company. Buck-passing is now the first line of defence to a consumer complaint

Developers

Developers are the core of the industry and often control the development, marketing and management operations.

Developers are reliant on up to four separate sources of revenue:-

1. Sales of new timeshare – which are now severely depressed.
2. Management fee income – which is still holding up (see later under Management Companies)
3. Travel services – which are weakening because of reduced owner base and stiffer high street competition
4. End user finance commissions – which are also depressed by the reduction of sales activity, although the percentage of current sales probably has a higher element of finance than previously as the marketing activity seeks to exploit less wealthy consumers.

A number of developers are (secretively) linking with holiday clubs to utilise empty accommodation although, if challenged, would deny any such involvement. The reality is that holiday clubs are now able to economically deliver substantial amount of “fodder” for the salespeople at a timeshare resort.

Marketers

Marketing companies tend to have short lives, disappearing whenever the level of complaints gets too high. But at any one time there are about 150 active marketing companies separately indefinable apart from developers. It is a common practice for marketing companies to be contracted to developers as “franchisees” (as opposed to agents) to enable developers to distance themselves from the practices of the marketers.

This group has probably suffered most from the downturn in sales with some moving East (India, Thailand, China etc); some have “retired” whilst others have been closed down by the authorities.

Management companies

Most resorts are managed by the developer or by a company controlled by the developer. Very few resorts – possibly no more than 50 in Europe - are managed by an independent management company and even fewer by the owners themselves.

Management fees a few years ago would have only represented 25% or less of the annual revenue of a developer/management company group. There is now (2003 accounting year) evidence that management fees represent between 40% and 50% of revenue for most of the larger companies as sales revenues decrease and management fees increase. At least one developer appears to be reliant on management fee income for at least 60% of its annual profit. Accounts for 2004 are expected to demonstrate the increasing imbalance between reducing sales income and increasing management fee income and profit.

Exchange companies.

Approx 75% of owners are members of an exchange company (or points club)

There are four exchange companies operating within Europe (there are over 150 serving the US market). Estimated market share of exchange companies in Europe:-

RCI	60%
Interval International	32%
Dial an Exchange	6%
World Resort Exchange	2%

Whilst RCI have moved their focus from exchange of weeks to running their own points system, Interval International have remained with conventional timeshare (although they have linked up with an independent points scheme, Sunterra). Circulation of RCI “Holiday” magazine, distributed to all English speaking members of both RCI Weeks and RCI Points, has remained stable for the past 4 years at between 200,000 and 210,000 but is not showing any underlying growth.

The two major exchange companies have a quality rating system applied to their affiliated resorts. The general consensus is that the basic scheme is a reasonably good guide to quality differences but that there has been “political” interference with favoured developers being granted higher than justified status, resulting in the quality grading schemes falling into disrepute. RCI, for the purposes of its points system, now grades resorts on a “popularity” or “demand” basis which takes greater account of the geographic position of the resort as well as quality factors.

Both major exchange companies appear to parallel their exchange service with rental services available to the general public, often in a manner that seeks to hide their involvement in a rental operation.

Consumer Finance Providers

A substantial volume of sales are made using finance, mostly provided by either Paragon Finance or First National Bank (FNB) which takes the bulk of the market. But where these companies decline a borrower, some of the larger developers operate their own finance book for riskier borrowers and sometimes sell on the book after a year or so where the borrower has demonstrated a reliable repayment pattern.

Finance houses generally provide the developer with some 80% of the purchase value at the point of the loan agreement being accepted with the remainder being paid at a later date. Should a borrower default, it is common practice for the developer to return the money to the finance house and recover the asset (week or points). However, it is generally the owners' club that is charged for the unpaid management fees, this sometimes resulting in an additional levy on all owners to cover this "loss".

Interest rates are generally very high at over 19% APR at a time when personal loans are sometimes in single figures

Unusually, FNB are neither regulated by the Financial Services Authority nor registered with either the Financial Ombudsman or the Financial Services Compensation Scheme which limits the options for consumers with complaints about FNB, including their responsibilities under the Consumer Credit Act 1974. This forces a consumer who has a claim under the Consumer Credit Act 1974 to take the matter to court – the cost of court action being a very strong disincentive against them doing so.

Credit cards are used by many purchasers to pay an initial payment. This provides some comfort to consumers under the Consumer Credit Act 1974 and also under the "10 day voluntary claw back" scheme.

Independent Resale Brokers and Wholesalers

Independent brokers act as agents for owners wanting to sell by seeking out buyers.

But the lack of consumer confidence in timeshare has resulted in a decline in the number of honest brokers operating in Europe and a concomitant increase in the number of dishonest brokers – see "Fraud" later.

Independent brokers are heartily disliked by developers who see them as "taking the bread from their mouths". Developers respond to this perceived competition by:-

- refusing to transfer ownership to a new owner found by a broker
- refusing to grant a new owner the same rights as the original owner
- applying a penalty transfer fee - €1,000 or €1,500 are not unknown - which has the effect of killing a sale and "locking in" the original owner. See Appendix 5

There are 5 *wholesale* timeshare brokers in Europe.

Owners who have traded-in a week in exchange for other weeks or for membership of a holiday club find that their traded-in weeks are passed to a wholesaler (often for little or no value) who sells them, often in blocks of 10 or so, to resale brokers or back to the resort itself. Prices charged by wholesalers range from €70 to €1,500 but most are in the €300 to €800 bracket. See Appendix 10 for an example of a recent wholesalers' list

Trade Body – Organisation for Timeshare in Europe (OTE)

OTE is a reflection of the industry it represents.

Trade membership of OTE has declined over the past three years from a peak of 162 (December 1999) to just 67 (November 2004) out of a total potential membership of around 1,100 companies.

Some OTE members are substantial (RCI, Club la Costa etc.) but many large companies are not members of OTE (Sunterra, Interval International, Resort Properties etc.) so OTE influence is limited to around 30% of the total industry in terms of timeshare ownership.

This decline in membership has been brought about by resignations for a variety of reasons:-

- Failure of OTE to influence law makers to create a "level playing field" for timeshare in competition with timeshare-like products, principally holiday clubs.
- Failure of OTE to persuade law-making authorities to give timeshare greater freedom from oppressive legislation
- Cost of OTE membership at a time when profits are under severe pressure
- OTE recent claims to toughen their Code of Ethics.

Financial position of traders.

The industry has always responded to long-term hurdles with short term solutions. This is well demonstrated by its reaction to the imposition of a ban on the taking of deposits in 1997 when it increased high pressure sales techniques, which were effective as a short term solution, but eventually turned out to be counter-productive in the longer term as consumers started to resist the whole concept of timeshare

Traders are responding to the problem of reduced sales revenue in different ways:-

1. Many traders have recognised that the real estate value of their resort(s) is now substantially greater than it was 10 years ago and greatly exceeds the value as a timeshare business. They are now actively getting rid of owners to free them to realise this enhanced real estate value.

2. Some are getting rid of timeshare owners and utilising the accommodation for package holidays, rental etc.

3. Creating new "products" to sell to existing owners.

4. Affiliating with competitors to cross-sell products in joint ventures and strategic alliances.

5. Using empty accommodation for rental, package tours, holiday clubs etc.

Some companies are actively promoting themselves as being available for sale. The sale prospectuses put emphasis on the management fee revenue potential and the opportunity to sell alternative products. Sales revenue potential is played down!

But the public response of industry to the downturn in business is to bury its head in the sand. Industry leaders have made statements that the depressed state of the industry is caused by factors outside their control. They blame the development of low costs airlines; the trend, especially in the UK, of using spare equity in home values to acquire a second holiday home and cut throat pricing by package holiday operators. But the industry totally ignore the prime reason for the decline – loss of consumer confidence in the industry.

Staffing

Staff turnover is increasing, as demonstrated by the greater number of advertisements for replacement sales staff. It appears that declining sales are resulting in reducing sales commissions with the result that the better salespeople are being driven further East. A likely outcome of this trend is that the quality of salespeople in Europe will deteriorate resulting in even fewer sales being made.

Economic impact

The timeshare industry in Europe generates, directly and indirectly, about €2billion a year.

A large proportion of this sum (over 20%) is fraudulent and a further, incalculable, proportion is transferred outside higher tax areas into jurisdictions with much lower tax rates, mostly outside the EU.

Marketing

Most marketing techniques continue to be rooted in the past and have remained unchanged for nearly a generation.

At the responsible end of the market, potential buyers are invited to sample the product during a low cost week or week-end break "try before you buy". But the bulk of marketing still relies on the bait and trap technique – an enticement to a presentation.

Presentations fall into three types:-

1. Off site. These are most common in a consumer's home country where presentations may take place in marketing company offices, but more often are held in hotels, leisure centres, golf clubs etc.. Enticement for these presentations is almost universally a "Free Holiday"

2. On-site, newcomers. Exactly as per off-site but with the advantage, to both seller and potential buyer, that the product can be sampled. Enticements are :-
   a. Scratch card – everyone is a winner
   b. Tour operator endorsement – tour operators deliver busloads of holiday makers to a timeshare resort.
   c. Sales Inspection Visits (SIV) or Fly/buy - as a result of a "Free Holiday" promotion.

3. On-site, experienced timeshare owners. This presentation majors on the extra benefits of owning at this resort and moves towards a trade-in of the old for the new. The primary source of "fodder" are owners on exchange

As a result of reducing consumer confidence, off-site sales have been progressively reducing and the industry is moving towards SIV – with its inherently greater costs - as the main marketing technique.

The profile of consumers invited to presentations has changed over the past years. Whilst many marketing companies claim to profile their potential purchasers with minimum criteria (married or living together, home owners, annual income exceeding €25,000 etc.) there is solid evidence that this profiling is ignored as many couples who clearly cannot afford the purchase are being enticed into signing purchase agreements, often linked to high-cost loan agreements

Lies ("blagging" in trade parlance) are the principle weapon in the salesman's armoury.

Typically:-

- Claiming membership/owned by RCI, ABTA etc.
- Claiming that the purchase will guarantee the ability to go anywhere at anytime using the exchange system.
- Claiming that the purchase is a good financial investment

For an industry dealing with consumers, the variety of types of traders is large and confusing.

A consumer may have to deal with at least 8 separate entities:-

1. Enticer – who gets the consumer to a sales presentation
2. Enticement provider – who is (supposed to) deliver the enticement – "free" holiday etc.
3. Marketer – with whom the consumer contracts as agent for the "provider"
4. Provider – who is responsible for delivering the service (usually the developer)
5. A trustee – who holds assets in trust for the consumer
6. A management company – which is responsible for day-to-day maintenance of the accommodation
7. A club - to which the consumer (sometimes) belongs
8. A resale broker – who sells the ownership when the consumer tires of the ownership.

In reality, the first four could be combined into a single entity, but seldom are, so that blame for misrepresentation can easily be passed by the provider (who is in the business long term) to one of the others, who usually only have a short life cycle.

Many purchase agreements for timeshare-like products are totally one-sided. There is often no clear statement of what the purchasers is buying. A purchaser who asks to have a trial look at a website booking system to confirm that what he was told is denied this – a "pig in the poke" problem. The full terms and conditions of the contract may not be delivered to the purchaser until after all payments have been made and outside any cooling-off period that may exist.

The extreme complexity of purchase contracts bemuses consumers and lawyers alike. Some contracts extend to over 50 pages of (very) small print designed to protect the seller against claims by the buyer and ensure that the buyer never reads the small print until it is too late to cancel . This lack of simple transparency demonstrates the attitude of a large part of the industry to consumers – 'tell them lies and cover your backs with legal jargon'.

Despite this complexity, lawyers comment that the purchase agreements are "not worth the paper on which they are printed". And there is an almost universal unfair clause in agreements which denies that verbal representations are enforceable.

Sales conversion ratios and Cancellations

Conversion ratios at sales presentations, which averaged 1 sale for every 20 attendees in 2000 is now less in 2004 but the main downturn is in numbers of consumers willing to attend presentations. Cold-calling offices in the UK now have much reduced staffing and street touts (where they are permitted) are not getting as good a response in Spain and the Canaries etc. as consumers become more alert to their activities.

But consumers who attempt to legitimately cancel are often threatened and intimidated into continuing with the agreement. “We’ll send in the bailiffs”. “We know where you live” and the use of crude abusive language are all methods used by salespeople to hold in a sale. See Consumer Problems later

Pricing

Timeshare has failed to respond to increasing competition and has been overpriced by developers for the last 20 years. There are substantial differences in the price of timeshare, mostly dependent of ***who*** is doing the selling. A week bought from a developer may cost €12,000 – the same week bought from an owner (perhaps through an independent broker) no more than €3,500

Example:-

	Studio (Low Season)
Owner pays developer	€6,500
Owner sells to broker	€100
Broker sells to new owner	€1,300

See Appendices 9 and 10 for examples of open market prices.

An important effect of this high price policy has been to restrict the size of the potential market to those socio-economic groups who can afford the purchase. Some developers have widened their market by offering a low cost/poor service to get purchasers “on the hook” and then upgrading them when the purchaser realises that their existing purchase is almost worthless. This is covered under “up-grade” scam in Frauds.

The industry explains (excuses!) the high prices they charge as being the result of very high marketing costs.

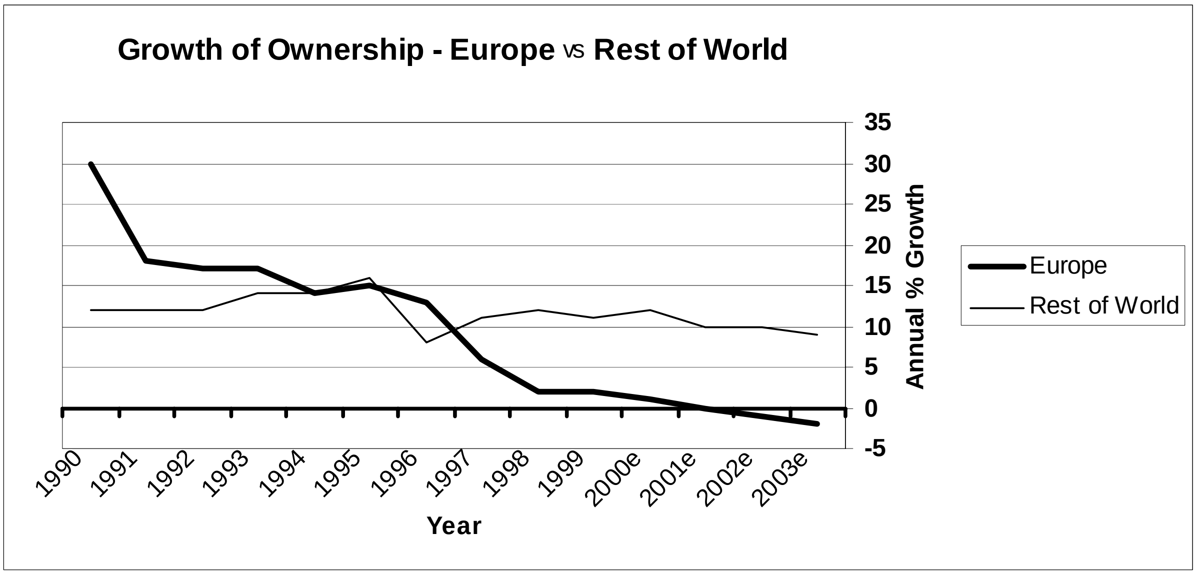
With conventional timeshare, just under half of the purchase money goes to the marketing operation and just over half goes into providing the product and the profit for the developer. But with a real (as opposed to bogus) holiday club, over 90% of the purchase price may go to the marketing organisation, and less than 10% to the club itself. Out of a payment of €8,500, only €800 may go to provide the service that has been purchased. One holiday club admitted to receiving €100 membership fee out of a payment routinely as high as €11,000 to the marketing company. See Appendix 4.

Many resorts have stopped all selling activities because they consider that their available accommodation (all low season) is un-saleable.

Owners

There are some 1.3million owners in Europe each owning, on average (or the equivalent in points) of 1.7 weeks of timeshare. This total number is marginally less than in year 2000. In the United States there are over 3million owners and worldwide nearly 7million.

Ownership in Europe is dominated by four countries:- UK (30%), Germany (20%) France (7%) and Italy (7%).



It is becoming apparent that timeshare ownership is not, contrary to earlier reports, “for life” but is regarded as being a passing phase as consumers change their holidaying patterns as they mature. Whilst timeshare is mostly presented as a perpetuity product, the reality is that most owners change their holiday habits after 10 to 15 years .

Owners Clubs:

Proprietary – where the “club” is under the total control of a proprietor – usually the developer. Some may have a “Consultative committee” which is no more than a sop to the owners to provide some appearance that the owners have a say as to how the resort is run. The reality is that timeshare owners have no powers to make decisions affecting their use and enjoyment of the resort and the annual costs.

Members – where the “club” is run on democratic lines with decisions being made by the majority of owners. But a great many Members' Clubs are democratic in name only as they are fully under the control of the developer/management company. A TCA survey (1999) showed that only 29% of resorts in the UK were truly democratic.

Bogus – where the “club” has no legal persona or structure. Typically a holiday club although a number of timeshare resorts also have bogus clubs.

Annual Costs

Annual costs of ownership are escalating considerably faster than inflation.

A timeshare resort that was taken over and run by the owners employed a new management company which demonstrated that the previous management company had been over-charging each owner €145 every single year by spurious accounting. Whilst some resorts appear to be defrauding owners by over €200 a year this practice is not universal but we estimate that the total amount of money improperly appropriated from owners by management companies in 2004 is an average of €100 per week (or points equivalent) owned.

In addition, approximately 60% of owners pay the costs of exchanging each year which averages at €225 per week owned .

Owners' Satisfaction Surveys

Owners' satisfaction surveys carried out by the industry, mostly for publicity purposes, are highly suspect. In the absence of any independent surveys, the best guess is that a substantial proportion of owners – perhaps up to 50% of the ownership base – are reasonably satisfied. Evidence of dissatisfaction – 'no-shows', the number of owners registering for sale etc – is rather easier to establish. But until a wholly independent survey is conducted it is not possible to say exactly how many owners are satisfied with their purchase and how many are not satisfied.

Consumer problems

The history of timeshare is littered with complaints about problems at the point of sale – problems recognised in the 1980s which resulted in the first Timeshare law in the UK and was closely followed throughout Europe as a result of the Timeshare Directive of 1994.

But problems of ***purchasing*** are now being matched in both volume and scale of consumer distress by problems of ***ownership***.

There is a total absence of specific legal consumer protection for the second and third phases of a timeshare ownership cycle – ownership and exiting – where a considerable amount of consumer detriment now takes place.

The TCA has identified a modest downturn in the level of complaints about purchasing, possibly due to the reduced level of sales being made, but there has been a noticeable increase in complaints about ownership and getting out of ownership.

The Citizens Advice report "Paradise Lost" (November 2003) details a great many examples of consumer complaints registered with Citizens Advice Bureaux in the UK.

The German timeshare consumer organisation is now dedicating the majority of its efforts to court actions to obtain compensation for consumers who claim that they were cheated by timeshare operators. Substantial cases in both civil and criminal courts are in preparation by owners taking action against operators.

Purchasing problems

The prime problem is, as it always has been, the lies told by salespeople in order to make a sale. But, where lies were the only problem there are now more severe issues such as harassment and intimidation. Examples of these lies are shown above under Marketing.

Declining sales volumes are resulting in more aggressive behaviour by sales people especially when confronted by a purchaser attempting to cancel. Typically:-

- " there is no cooling-off period" – when a cooling-off period does exist either by statute or the OTE Code of Ethics
- "we never received your cancellation letter" – when the purchaser had definitely posted it by recorded delivery
- " your cancellation letter arrived too late" – when <u>posting</u> date is the relevant time
- " your cancellation letter was not signed by a lawyer" – there is no requirement for this
- Persistent harassment by letter and telephone.
    - Some of the letters have been the cause of extreme distress to consumers
    - Verbal threats of violence to consumers are not unknown

A typical example of harassment is given in Appendix 8

Ownership problems

Ownership problems are now becoming the principal cause of complaints from consumers to TCA with rapidly escalating annual fees, declining standards and the total failure of resorts being the main causes for complaint.

Ownership problems stem from three sources:-

<u>Unsatisfied expectations.</u>

Where the salesman has "over-sold" the benefits – often the ability to use a booking system (points, multi-resort or exchange) . See Marketing previously

<u>Large increases in annual fees</u>,

Some resorts controlled by the owners themselves, or those few operators who take a responsible view of their role, are holding annual fee increases close to the level of inflation. But at the other end of the spectrum, annual fees have increased by 10%, 20% or even over 30% a year over the past few years. What was an acceptable annual fee of €250 has increased to over €500 within 4 years – usually with no proper explanation to account for the massive increase.

Two large operators have increased annual fees by more than 5 times the rate of inflation over the past four years without giving any reason or providing any supported justification for the increases. Numerous smaller operators companies are following suit.

Management fee income now represents a major source, perhaps **<u>the</u>** major source, of income and profit for developers.

<u>Owners being driven out</u>

An increasing number of resorts are actively driving owners out so as to use the accommodation for other purposes. Every year an increasing number of resorts cease to exist as timeshare resorts, either converting into rental, package holiday resorts or being knocked down and rebuilt as hotels etc. because their real estate value is considerably greater than their timeshare value.

The techniques for driving owners out are:-

- progressive increase of annual fees (or applying supplementary fees) until they are too high for owners to accept.
- "forgetting" to send management fee invoices and then terminating membership for non-payment
- failing to keep the resort in good condition so that it loses affiliation with either RCI or Interval International.

Harassment on holiday

A common complaint is the persistent harassment by salespeople of owners whilst on holiday. Many owners say that their hoped-for relaxing holiday was spoiled by being pestered by salespeople forever trying to sell them something "better". Timeshare is no longer a holiday for many owners but yet another marketing opportunity for operators to sell additional products.

Exiting - getting out of ownership

It is probable that more than half of all owners want to extract themselves from ownership. As evidenced by:

- The large number of owners caught by Spanish resale scam (See "Frauds" later)
- The continuing heavy demand for TCA Fact Sheet "How to Sell" (now exceeding demand for the "How to Buy" by a factor of 200 to 1)
- The large percentage of "no shows" – owners who have never made use of their timeshare either at their own resort or by exchanging. Trade estimates "no shows" to be over 10% of the timeshare owning population.
- The large percentage of owners who have registered their weeks for sale with resale brokers. A survey in 2000 suggested at least 25% of owners were keen to sell – a percentage that has almost certainly increased in the intervening four years.
- The increasing number of owners walking away by refusing to pay the annual fees.

Reasons for wanting out:-

- Unable to travel because of age or infirmity.
- Cannot afford rapidly increasing annual ownership fees
- Cannot afford the rapidly increasing exchange (and points club) fees
- Recognised that quality self-catering rental is now easier and cheaper than timeshare in all but the high season periods of the year
- Changing holiday patterns – timeshare appears to be no more than a 15 year purchase
- Unsatisfied expectations (typified by the high number of "no shows")
- Ashamed that they had "been caught". Not admitting to family.
- Divorce, bankruptcy, death

The ageing problem is seen as a key issue in the future of the industry. If traders are unable to replace owners who drop out because of age with younger owners then the prospects for the future of the industry are slim

It was reported 3 years ago that the median age of **new** purchasers was around 50 and that over 25% of purchasers in UK and Germany (the largest and third largest markets respectively) were over 60 years old.

If this purchaser age profile was the same as ten years previously, then the median age of the whole ownership base will now be between 55 and 60 years old. This high age profile confirms the experience of TCA from regular contact with timeshare owners and will be the cause of increasing numbers wanting to get out.

The methods of getting out

1. Selling

About 10% of owners have high season weeks, in medium/large apartments in good quality resorts. This group are usually able to make a sale, given time, at between 15% and 40% of the price they originally paid to the developer.

At the other end of the spectrum 30% of owners have low season, small units (studios and "sleep 4") and/or in poor quality resorts. They have no prospect of ever making a sale and owners have to "walk away" by not paying annual fees. Some have done "moonlight flits" (not disclosing their new address when moving) to avoid threats of legal action for non-payment.

The majority of owners own mid season, medium sized apartments in average quality resorts. Some may be successful in making a sale at around 10% of the original purchase price but the great majority cannot make a sale and have to rely upon walking away.

Members of points clubs suffer even poorer resale prices and members of holiday clubs mostly find that their membership is un-saleable.

Developers are now actively blocking the transfers of ownership, in some cases by applying a "penalty" transfer fee. See Appendix 5.

2. Walking away

Owners who cannot make a sale have little other option other than to "walk away" by refusing to pay the annual fees.

Operators deal with owners who refuse to pay their annual fees in various ways:-

- Repossessing ownership – which is what the owner wants. But repossession is on the decline as traders find it impossible to sell many weeks (principally in mid and low season) . Traders are very shy at publishing numbers of repossessions but :-
    - the top quality resorts and those run by the owners are around 0.5% to 1% per annum. Most repossessions are as a result of the owners having personal financial problems (or death).
    - Good resorts around 5% per annum
    - The worst resorts exceed 25% per annum – with insufficient sales to replace this loss the resort can be expected to "die" within 4 or 5 years – a number have already done so.

- Locking owners in by taking legal action for non-payment. If an owner has a timeshare which is un-saleable and the resort/club successfully takes legal action to recover unpaid management fees then the owner is stuck with the problem forever. This is a disturbing trend, resulting in owners having a millstone around their necks for the rest of their lives.

Consumer Complaints

There are a number of bodies throughout Europe to whom consumers can complain, some government sponsored, others privately financed.

In the UK the three main recipients of timeshare complaints are Trading Standards (linked to the Office of Fair Trading), Citizens Advice Bureau and TCA. Complaints statistics published by the OFT show the following during the year ending September 2003-

- Package holiday complaints 19,666
- Timeshare complaints 4,388

Timeshare complaints represent 22% of package holiday complaints despite the timeshare industry being only approx. 6% the size of the package holiday industry, indicative of the high level of dissatisfaction with timeshare.

Concerned Owners Groups (COG)

A phenomenon of the late 90's and this century has been the mushroom growth of Concerned Owners Groups. This phenomenon results from increasing anti-consumer practices at resorts and the inability of individual owners to obtain satisfaction.

However, working as groups, even the COGs often find themselves impotent against a wealthy, aggressive, trader who can (and often does) bully owners into silence with threats of legal action – which in some cases has ended in High Court writs claiming massive sums being issued to ordinary people who have never seen a writ before in their lives.

An interesting contrast in the attitude of owners in the UK with those in the US is shown in the different content of the internet forums each country. The UK forums contain much more adverse criticism than their equivalents in the US and there are clear indications that traders in Europe are actively trying to suppress adverse comments on open forums.

The Media

A large proportion (at least 40%) of the media will not cover timeshare because they mistrust either the product or the people running it. A BBC producer, when asked why she no longer covered timeshare stories replied "Boring. Same old story. Villain cheats consumer. If you give me a 'Consumer cheats villain story', I'll go with it!".

There is little doubt that the constant negative reporting of timeshare has had a major impact on consumers' perception and is a primary cause of the poor image that timeshare now has in the eyes of consumers.

The industry is critical of the adverse media coverage but the media response has been:- "if you don't want to see it in print, don't let it happen".

Fraud and/or Misrepresentation

Most industries have their fraudsters and rogues, but the timeshare industry appears to have more than its fair share.

The total consumer fraud each year is estimated to be €500M – equivalent to over 20% of the gross domestic product of the industry

Although a number of major frauds have caught the eye of the public, the biggest, John Palmer (who was ordered to pay €8.4million compensation to victims) only represents a tiny fraction of the fraud that is taking place within the industry.

The great majority of the frauds are based in, or emanate from, Spain. Some scams are in decline, for example the buy/sell scam, as the level of sales declines whilst others, such as the resale scam, are on the increase as more owners want to get out.

There are a large number of different frauds – the following are just the major ones. Estimates of the annual amount stolen is shown after each example of fraud or blatant over-charging:-

<u>Management fees (€225M a year)</u>

A review of five leading operators indicated that they were each charging between €125 and €175 per week in excess of the true costs. However, not all operators are so greedy so a guesstimate figure of €100/week has been used.

<u>Cash-back schemes (€75M a year)</u>

The promise of "all your money back" after 3, 4 or 5 years has been a marketing tool for dishonest salesmen for a great many years. Yet TCA has received no evidence whatsoever that any consumer has ever received the promised payment from a cash-back scheme. TCA has details of over 500 victims of this scam.

<u>Upgrade scam (€75M a year)</u>

Example 1. A purchaser is shown an apartment which they are told is the one they are buying. Only when they arrive for their holiday, perhaps two years later, do they find that the apartment number they signed for is not the one they were shown. The salesman has a simple solution - pay more to upgrade to the superior apartment.

Example 2. A purchaser of points, perhaps cautious of over-exposing themselves financially, is persuaded to buy the very minimum number of points on the promise that it will deliver all the holidays the purchaser wants. When the owner attempts to book the holidays they find it almost impossible to get a holiday but, already committed, are easily persuaded to buy more points. All this is made easier by the willingness of end-user finance houses to provide (very high cost) finance.

This scam is practiced by a number of major companies and is considered "fair game" by the trade.

Spanish resale scam (€40M a year)

A timeshare owner would be cold-called and told that their timeshare had been sold for a very good price. All the owner had to do was send a payment – varied between €300 and €3,000 – for "legal fees", "tax" or some other expense - and the sale proceeds would be sent to them within a matter of weeks. The owner sends the payment and hears no more.

Police activity in Spain has resulted in the number of fraudsters being closed down, but this widespread scam still continues.

Investment Scam (€30M a year)

Consumers are invited to "invest" in a number of timeshare weeks on the promise that these weeks will be re-sold within a few months to generate a profit of around 15%. However the resale does not take place leaving the "investor" with unwanted timeshare on which they have to continue paying annual management fees or lose all their investment. The TCA is aware of over 200 victims of this scam.

Selling "fresh air" or selling the same product to more than one person.(€25M a year)

It was selling the same week in the same apartment to more than one owner that got Graham Maynard jailed in Birmingham in 1998. But the fraud still continues with allegations that specific weeks in specific apartments have been double or even treble sold and at least one points club is alleged to have oversold its inventory.

This fraud is often not apparent to the victim until two or three years after purchase, by which time the business may have changed hands, leaving the victim with no redress except through the Consumer Credit Act 1974

Buy/sell scam (€10M a year)

The salesman promises that an existing timeshare owned by the purchaser will be used as a trade-in to pay (in part) for the new timeshare . The purchaser pays the difference, only to find that the original timeshare has not been sold and that they now own two timeshares. John Palmer was sentenced to 8 years in prison for this fraud.

Resale brokers taking "registration fees"(€10M a year)

A "broker" advertises a selling service, suggests a falsely high selling price (or fails to correct the owners view of an unrealistically high price) and requires a registration fee. Again, the owner hears no more.

Collateral Contract Scam

Requiring a purchaser to sign two contracts – one being an agreement covered by the timeshare directive where no deposit is taken and a cooling-off period is provided, the other agreement being a 35 month trial where full payment is taken and no cooling-off period allowed. Should the purchaser attempt to cancel the first agreement they are told that they are still obliged to stick with the second contract – the second contract effectively being a means of locking in to the first contract.

Multiple fraud victims

Timeshare owners keen to get rid of their timeshare are persuaded to pay for membership of a holiday club; get a promise of a cash-back and have their timeshare week transferred out of their name. The reality is:-

- The holiday club membership is worthless and seldom delivers anything that is promised.
- The cash-back scheme does not deliver
- The timeshare is not transferred out of their name and they risk being sued by the resort for not paying management fees.

Black Lists

There are 7 websites with "black lists" of traders to be avoided:- Spain (2), Germany (2), France (1), Belgium (1) and Sweden (1)

The largest list is on www.crimeshare.org with over 850 business names, but merging all the lists together (and removing duplicates) yields over 1,400 names, almost all in Europe. However, many of the businesses have ceased to trade leaving only about 10% still active.

Bank and credit cards

TCA have identified a major surge in claims for misrepresentation and breach of contract against credit card issuers and lenders over the last two years. The TCA Fact Sheet on the Consumer Credit Act 1974 is now the most requested TCA Fact Sheet

The Consumer Credit Act 1974 (which is only applicable to UK citizens) makes the provider of credit (card company or lender) jointly liable for the delivery of the service. This Act is now being extensively used by consumers to try to recover all the money paid as a result of breach of contract or misrepresentation. Banks are very variable in their response to these claims, some readily accepting well-supported claims, others rejecting them. But persistence is usually rewarded

The two most common reasons for banks to reject are:-

1. The banks refuse to accept that a foreign transaction is covered by Consumer Credit Act 1974 (but may be willing to refund the amount paid by credit card). The High Court in London ruled (November 2004) that overseas transactions were not covered by the Consumer Credit Act 1974 but this ruling has been appealed by the OFT

2. The banks claim that the transaction is a "third party" transaction and therefore not their responsibility. This reason is usually applied to a claim for non-receipt of a cash-back promise but some banks have paid out in these circumstances.

The 10 day voluntary "claw-back" scheme provided by all credit card operators (but not in respect of a debit or charge card) requires the bank to attempt to claw-back any payment made on their card for a timeshare or holiday club purchase provided that the card holder has written to cancel within 10 days of signing. This scheme is very effective and TCA is only aware of a very few cases where the scheme has not worked as a result of the merchant objecting to the claw-back.

Many fraudsters appear able to offer credit card payment facilities, usually by claiming to their own bank that their product has nothing to do with timeshare or by using the facilities of another company. The banks of the victims of the frauds appear unable to stop this practice.

Law Enforcement & Self-Regulation

There is a deep-rooted suspicion within consumer organisations that the authorities have "washed their hands" of the timeshare problem.

European Timeshare Directive

All countries within the EU have implemented the Timeshare Directive, which is designed to give protection to purchasers of timeshare. The key requirements are:-

- a minimum 10 day cooling-off period
- a total ban on the taking of a deposit
- a schedule of information to be given to the purchaser, in his own language

But each state has implemented the Directive in a different manner, which confuses consumers – the cooling off period varies from 10 to 15 days and some countries allow a deposit to be taken by a third party even though the Directive clearly requires a total ban on deposits.

The law is full of loopholes or, more precisely, traders have quickly found loopholes which they have utilised to the full.

Typical matters which are not covered by the laws:-

- purchase of timeshare in a boat (canal boats in UK, France and Switzerland)
- purchase of membership of a holiday club
- purchase of timeshare for under 3 years (trial packs)
- timeshare ownership

The European Parliament resolved (July 2002) to tighten up the Timeshare Directive but action to carry out this resolution has been sidelined to allow a more broad-ranging consumer protection directive to be introduced – the Fair Trading Directive (FTD) .

Enforcement

A major criticism of the Timeshare Directive is the lack of "bite" in the enforcement powers and the lack of action by enforcement agencies, especially in Spain (including the Canaries) and Portugal, where blatant disregard of the law is rife.

Practical enforcement is made more difficult by

- Registration of many companies in off-shore tax havens
- Registration of a non-trading company in the UK with identical name to the trading registered elsewhere with the intention of confusing authorities.
- multiple companies involved in a single transaction – each blaming the other

The Office of Fair Trading (OFT) in London is one of the few civil enforcement agencies to be proactive in addressing timeshare consumer problems, although the police in Spain have, in recent years, stepped up their activity, but there is still a large gap between consumer expectations of enforcement and the reality. Consumers complain to TCA at the continuing existence of fraudulent companies and the lack of response they get from authorities when they complain to them.

After many years of inactivity – inactivity suspected by some to be caused by bribery – the police in Spain have begun a clean-up operation. The Madrid police have made a number of high profile arrests in Tenerife and the Malaga police have been quietly removing many of the criminals from the scene. But, although the volume of complaints about frauds emanating from Spain is slowly declining, as soon as one fraud is closed another opens and it seems that a handful of the real villains (mainly now in mainland Spain) appear to be immune to police enquiries.

Attempts to encourage a number of holiday clubs to comply with a voluntary code of conduct have not, so far, been successful.

Self Regulation.

Self regulation is almost non-existent

The OTE has a Code of Ethics which fails to satisfy most of the criteria laid down by the Office of Fair Trading (OFT) as necessary for the adoption of a Code under the OFT "Kitemark" scheme. Members of OTE all too often fail to comply with the Code and similarly OTE fail to enforce the Code, resulting in the same complaints recurring time after time.

Critics of the OTE Code say that the Code:-

- lacks very little "plus value" above that already provided by law
- is poorly enforced and therefore ignored by most OTE members
- only applies to a small percentage of the total traders in the industry

OTE is in the process of revising its Code which may partly address the first criticism, but there is little confidence amongst consumer groups that OTE will improve enforcement of the Code and even less confidence that non-members will be attracted to join OTE to widen the application of the Code.

The substantial, and increasing , number of complaints to the TCA about the failure of OTE to enforce its Code has resulted in TCA producing a Fact Sheet on the problem.

Local Authorities

A number of local authorities in Spain and the Canaries are applying restrictions on street touts by either limiting their numbers (by a licensing system) or banning them totally. This has had a major impact on timeshare sales in tourist areas although enforcement is patchy.

The future *?*

The future shape of the timeshare industry in Europe is very reliant on the response of the traders to the problems now confronting them. If they fail to take positive action then we believe that the industry will look as follows:-

1. The trend for conventional timeshare will decline and the move 'up-market' will continue as an ageing ownership population and increasing annual costs take their toll. But timeshare will retain its pre-eminence as suppliers of good quality self-catering accommodation for families who must take their holidays within a limited range of weeks (such as school holidays) but will move to a head-on competition with tour operators by providing a total holiday package for medium and low seasons.

2. Owners of timeshare will be further squeezed to deliver greater revenues/profits for developers and management companies. Owners will increasingly be "locked in" to ownership, whether they like it or not.

3. The middle and lower quality market sectors of the industry will become an even bigger mish-mash of booking schemes:-
   a. Floating weeks
   b. Points systems
   c. Multi resort clubs
   d. Holiday clubs
   e. Rental clubs (lo-cost holiday clubs)
   f. And other variations on the “join a club and rent the accommodation” theme.

4. Increasingly owners at resorts which are inherently high value real estate will find themselves driven out – perhaps to join a points club, multi-resort club or another resort whose real estate value is poorer.

5. The amount of accommodation available for timeshare use will continue to decline as high value real estate is sold off but a modest level of new accommodation is expected to be constructed, almost entirely at the top end of the quality market.

6. The industry will be dominated by a very few large companies Many smaller traders will be absorbed, move East or disappear. Strategic alliances – where major companies work together to utilise each other's databases and cross-sell – will increase. And there will be a general consolidation of companies by take-over, merger and purchase of assets and companies will seek to create further “added value” products to sell to existing owners.

7. Marketing of conventional timeshare will progress towards:-
   a. Sales Inspection Visits.(SIVs)
   b. Two stage sales – low cost entry followed by a much higher cost final purchase. This process is listed under Frauds as the “upgrade” scam.

8. With more owners being squeezed into fewer resorts the effect will be for fewer owners to get high season weeks, but for resorts to have less unsold inventory which should, theoretically, reduce annual fees.

There is also a major human issue. The timeshare industry has bred a generation of “blaggers” and confidence tricksters who, as the industry declines, will seek employment in other fields, taking with them their anti-consumer practices.

The industry itself is pinning its hopes on the entry of international “brand names” to recover general consumer confidence and a world improvement in the currently depressed holiday industry.

Recommendations

Industry and Governments must decide whether or not their current laise-faire attitude to the timeshare industry is in the best interests of either themselves or consumers.

Simply responding to the problems with ever tougher law will accelerate the decline of the industry faster than it is already declining.

TCA believes that timeshare does offer unique benefits to consumers as a niche holiday product. Timeshare is shown to be a healthy industry elsewhere in the world so there is no reason for it not to be a healthy industry in Europe. Laws are needed to cover the whole life cycle of timeshare ownership – to protect the consumer at every stage from purchase, through ownership to eventual sale.

So a planned and co-ordinated approach to putting the industry back on its feet is essential.

It is still our belief that a joint approach - a combination of self-regulation and fairer law - will have the most beneficial impact. But these two elements must be done within a single framework dedicated to recovering consumer confidence.

Self Regulation

Effective self-regulation appears to be the key to solving the problems now besetting the industry.

Not only can self-regulation be set up and working very much more quickly than changes in law, but a demonstration by the trade that it really want effective self-regulation could discourage law makers from imposing punitive laws.

The trade should be encouraged to establish an effective self-regulatory regime despite its natural resistance to the concept. This encouragement should include both "carrot" and "stick":-

- Carrot being a promise of less repressive, more equitable, law AND public endorsement by government of a self-regulatory regime
- Stick being the threat that if the industry does not adopt an acceptable self-regulatory regime, the law will be toughened with a view to killing the industry. This should be supported by a concerted media campaign on the hazards of the industry to consumers.

However, experience with the failure of OTE to police its Code of conduct suggests that more stick than carrot will be required.

[An example of a suitable Code of Conduct (produced by Trust Timeshare Ltd) is available on request].

Law

There is a grave risk that too harsh a law will simply accelerate the demise of the industry.

Current proposals in Brussels would, in the opinion of TCA, mark the end of the timeshare industry in Europe. But a softer, more equitable approach, should be adopted provided that the industry act under the self-regulation proposal above.

The key characteristics of an amended law should include:-

1. Full harmonisation of the law throughout all states to ensure that consumers have the same protection wherever they live or purchase.
2. More effective enforcement through a central body and increased powers, including an arbitration scheme, to resolve consumer disputes
3. Re-definition of "Timeshare" to include the acquisition of rights for two or more periods of holiday accommodation where a capital payment is required and/or future payments. This avoids catching package holidays but ensures that all existing loopholes are closed
4. An extension of the cooling-off period sufficient to enable a full investigation by the purchaser of the implications of their purchase. A minimum of 28 days is recommended.

5. An underwritten guarantee that the full purchase price would be refunded within 12 months should the product fail to come up the claimed standard. This guarantee to be extended for 10 years, the repayment declining by 10% each full year.
6. A requirement that all clubs, resorts etc. should be fully under the control of the owners within 2 years of the establishment of the club.

Quality Grading System

The hotel industry has for long had a (number of) quality grading systems which, whilst not interchangeable, do provide independent assessment on a rational basis.

It is thought that such an independent quality grading scheme for timeshare resorts - perhaps relating more closely to a popular hotel grading scheme so that valid comparison can be made - could enhance the product by demonstrating the superior nature of timeshare in comparison to many hotels.

Bank and credit cards

Almost all purchasers of both timeshare and holiday clubs use a credit card for the initial payment. We consider that the issue of merchant credit facilities to a large number of fraudsters should be stopped by the banks. And any use by a trader of another organisation's card facility should be automatically treated as a fraud and the transaction reversed.

Banks, especially those in major tourist regions, need to be discouraged from providing merchant credit faculties to any organisation which a “home” bank considers to be acting in an anti-consumer manner.

APPENDICES

1. Estimated usage of timeshare accommodation
2. Largest companies
3. Cost comparisons
4. Money flow for a holiday club purchase
5. Ownership transfer fees
6. Case history – week in Tenerife
7. Case history – holiday club
8. Oppressive sales tactics
9. Resale advertisement
10. Wholesaler price list

te4.doc

TIMESHARE in EUROPE - 2004

APPENDIX 1

Estimated usage of timeshare accomodation

INVENTORY		USAGE	Use No. (000's)	% of Total
		Owner	540	14.40
		Owner Exchange	810	21.60
	SOLD 2,300,000 weeks	Owner No-Show	390	10.40
BUILT:-	Equiv 61% of total	Owner/Club Rental	100	2.67
1,300 Resorts =		Points Club/Bond	390	10.40
75,000 Apartments =		Multi-Resort Club	65	1.73
3,750,000 Weeks		Holiday Club	5	0.13
		Marketing	275	7.33
	UN-SOLD 1,450,000 weeks	Holiday Club	75	2.00
	Equiv 39% of total	Rental	375	10.00
		Other (Staff, empty, etc)	725	19.33

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TIMESHARE in EUROPE - 2004		(2003-2004 Estimated)					APPENDIX 2
LARGEST COMPANIES	**Total**	**Points**	**Turnover**	**No.**	**OTE**	**Base**	**Comment**
	Owners	**Owners**	**€M**	**Resorts**	**Member**		
EXCHANGE							
RCI - Europe & Asia	450,000	38,000	NA	700	Yes	UK (US owned)	Exchange & points club
Interval International - Europe	150,000	0	NA	NA	No	UK (US owned)	Exchange (linked to Club Sunterra)
DEVELOPER/MANAGERS							
Hapimag	136,000	0	NA	62	Yes	Switzerland	Bond scheme
Sunterra Europe	97,000	45,000	135	34	No	UK (US owned)	Incl. Thurnham
Club la Costa	50,000	24,000	40	20	Yes	Spain & UK	
Holiday Property Bond	33,000	0	NA	28	No	UK	Bond scheme
Anfi	30,000	1,000	60	5	Yes	Gran Canaria	
Resort Properties	30,000	0	NA	5	No	Tenerife	
RMI Consortium	27,500	10,000	25	5	Yes	Spain & Gibraltar	
Macdonald Hotels & Resorts	27,500	2,000	20	9	Yes	UK	
Timelinx	25,000	0	NA	1	No	Spain	Holiday club
Diversified/Crown Resorts	22,500	0	NA	6	No	Spain	
Pestana Group	18,000	0	NA	7	Yes	Portugal	
Clube Praia d'Oura	18,000	0	NA	2	No	Portugal	
"John Palmer"	18,000	0	NA	12	No	Tenerife	
Mondi Ferienclub	15,000	0	NA	9	No	Germany/Austria	
Lanzarote Beach Club	Was 19000	0	NA	1	No	Lanzarote	Closed 5 February 2004
Select Vacation Club	13,000	13,000	NA	8	Yes	Balearics	
Heritage Resorts	12,500	0	NA	6	No	Spain	
Club Finland	12,000	0	NA	9	Yes	Finland	
Regency Resorts	9,000	0	NA	5	Yes	Tenerife	
TOTAL LARGEST (19)	**594,000**	**133,000**	**NA**	**234**	**10**		
ALL OTHERS (approx 850)	**700,000**	**5,000**	**NA**	**1,075**	**35**		
GRAND TOTAL	**1,294,000**	**138,000**	**NA**	**1,309**	**45**		
NOTE:-	Members of exchange companies are only counted under "Developer/Managers"						

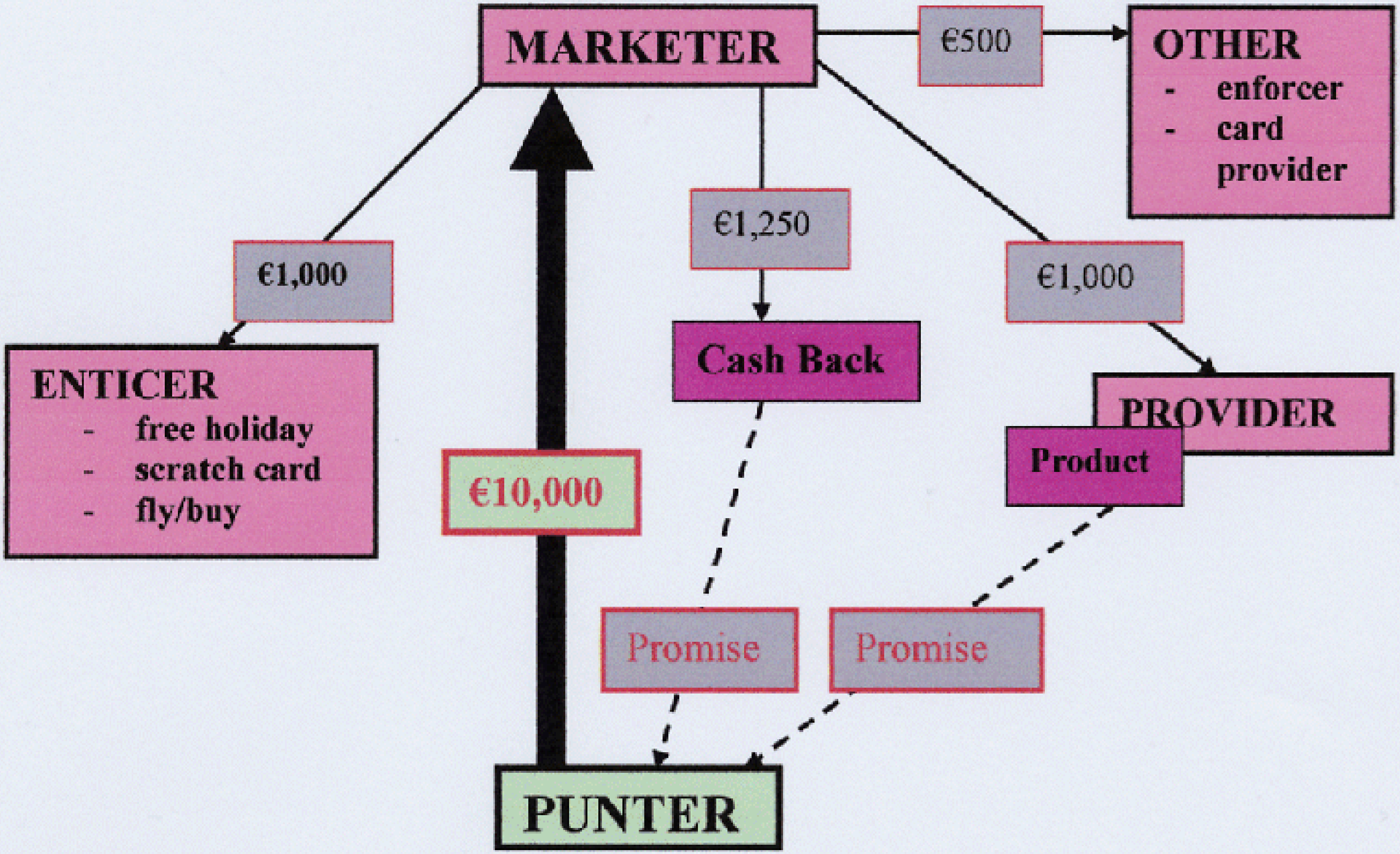
TIMESHARE in EUROPE - 2004 **APPENDIX 3**

Cost Comparisons - €

Criteria:-
* 10 year period
* cost of money - 5%/annum
* different place each year

	Timeshare	**Holiday Club**	**Lo-cost Club**	**Rental**
Capital payment	14,000	8,500	210	0
Interest on capital	8,400	5,000	330	0
Annually:- (10 yrs)				
Management Fees	7,000	1,000	1,000	0
Exchange Fees	2,800	0	0	0
Use Fees (10 yrs)	0	7,000	7,000	7,000
Residual Value	2,000	0	0	0
TOTAL COST	30,200	21,500	8,540	7,000
Cost per year	3,020	2,150	854	700

Where the money flows for a "Holiday Club" purchase.



Case history - a cross section of a week in a resort - Tenerife, January

The resort is real, the prices are real – the people are not. All are “T1” (one bed sleep 4, but with only 2 actually using)

Couple:

A. Always come to their own apartment for some warmth after Christmas. Cost for the week €401 (management fee)

B. Exchanged – but not where they wanted to go. Cost €837 (own resort management fee; RCI annual membership plus RCI exchange fee)

C. Booked through membership of an internet based holiday club. Cost €332. (The owner of the week had banked it with an exchange company)

D. Booked off the internet (“self catering accommodation rental”). Cost €181. An unsold week

E. Rented from the resort, acting for the owner, who advertised in a newspaper. Cost €431. The owner of the week was told that no rental had been successful and did not receive any of the rental income.

F. A “free” holiday for attending a presentation. Cost (which included flights) €606 Had to take the tour. An unsold week

G. Latest girlfriend of sales manger (hidden from wife !). Cost £nil. Owner had just had week “repossessed” for non payment of management fees.

H. Booked from package tour brochure. Cost (which included flights and half board) €775. An unsold week

Holiday Clubs – case study

Diamond Vacation Club (the "Club") does not exist, nor ever has existed, except as three words on a piece of paper .

The Club has:-

- No constitution
- No structure
- No members

DVC is not even a propriety club.

However, what does exist is a group of individuals with one factor in common – they each signed an agreement with Diamond Vacation Club Limited ("DVC Ltd") for it to provide a booking service to each individual for accommodation. But all this is in the small print which the consumers were not able to read before signing – no chance to take home; show to an advisor or utilise a cooling off period.

- Purchasers were told that they were joining a club – they weren't
- Purchasers were told that they would get heavily discounted travel/accommodation – they didn't

DVC Ltd went into liquidation in July 2003 leaving those who had contracted with them without the service that they had purchased. A number of "members" obtained a refund from their card companies under Consumer Credit Act

Oppressive sales tactics in the UK. The story of Mr & Mrs T

Mr & Mrs T signed up for a timeshare in the UK and cancelled by fax within the 14 day cooling off period.

They were then contacted by a representative of the company asking if he could visit Mr & Mrs T at home. He was very persistent so, grudgingly, Mr & Mrs T agreed.

A very large man arrived soon after 6pm and tried, for over 4 hours, to persuade Mr & Mrs T to sign a new purchase agreement. Eventually, having tried everything they could think of to get rid of the very large man – who sat on the sofa and refused to budge until he had their signature – Mr & Mrs T signed the agreement, and a loan agreement, knowing from their earlier experience that they could cancel within 14 days.

Next day Mr T sent a fax cancelling, exactly as before, and thought no more about the matter until they started to get invoices for management fees from the company and demands for payments from the loan company. They wrote again to the timeshare company and the loan company explaining that they had cancelled, but got no reply.

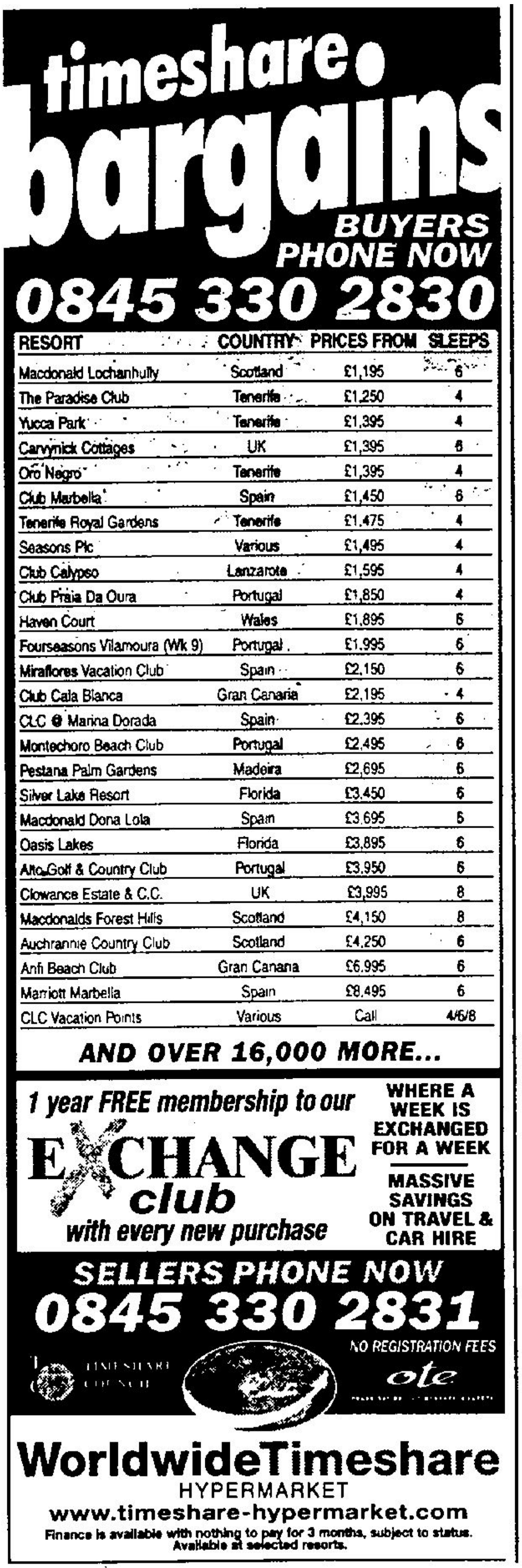
Eventually, after nearly two years, Mr & Mrs T received letters from a solicitor demanding the loan repayments be made. Again their reply was that they had cancelled and they provided evidence of the sending of the fax. The solicitors ignored this and eventually served a County Court claim on Mr & Mrs T. on behalf of the loan company.

By this time Mr & Mrs T were in a state of distress and they wrote to the Court explaining all the circumstances. Only days before the Court hearing the solicitors wrote to say that their clients were not going to pursue the matter further – no apology; no admittance that they had been wrong all along; no offer of recompense for the distress caused.

Mr & Mrs T did consider taking action against the company for the distress but decided against this as they knew it would cause even more distress.

[The TCA are aware of other examples of the same timeshare company employing exactly the same tactics]

Advertisement in Mail on Sunday – 26 September 2004



timeshare bargains

BUYERS PHONE NOW

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RESORT	COUNTRY	PRICES FROM	SLEEPS
Macdonald Lochanhully	Scotland	£1,195	6
The Paradise Club	Tenerife	£1,250	4
Yucca Park	Tenerife	£1,395	4
Carvynick Cottages	UK	£1,395	6
Oro Negro	Tenerife	£1,395	4
Club Marbella	Spain	£1,450	6
Tenerife Royal Gardens	Tenerife	£1,475	4
Seasons Plc	Various	£1,495	4
Club Calypso	Lanzarote	£1,595	4
Club Praia Da Oura	Portugal	£1,850	4
Haven Court	Wales	£1,895	6
Fourseasons Vilamoura (Wk 9)	Portugal	£1,995	6
Miraflores Vacation Club	Spain	£2,150	6
Club Cala Blanca	Gran Canaria	£2,195	4
CLC @ Marina Dorada	Spain	£2,395	6
Montechoro Beach Club	Portugal	£2,495	6
Pestana Palm Gardens	Madeira	£2,695	6
Silver Lake Resort	Florida	£3,450	6
Macdonald Dona Lola	Spain	£3,695	6
Oasis Lakes	Florida	£3,895	6
Alto Golf & Country Club	Portugal	£3,950	6
Clowance Estate & C.C.	UK	£3,995	8
Macdonalds Forest Hills	Scotland	£4,150	8
Auchrannie Country Club	Scotland	£4,250	6
Anfi Beach Club	Gran Canaria	£6,995	6
Marriott Marbella	Spain	£8,495	6
CLC Vacation Points	Various	Call	4/6/8

AND OVER 16,000 MORE...

1 year FREE membership to our EXCHANGE club with every new purchase

WHERE A WEEK IS EXCHANGED FOR A WEEK

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SELLERS PHONE NOW

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NO REGISTRATION FEES

TIMESHARE COUNCIL

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WorldwideTimeshare

HYPERMARKET

www.timeshare-hypermarket.com

Finance is available with nothing to pay for 3 months, subject to status. Available at selected resorts.

TIMESHARE in EUROPE - 2004

APPENDIX 10

WHOLESALER PRICE LIST - October 2004

RESORT	COUNTRY	WEEK	APART	SIZE	PRICE - gbp
CLUB MARBELLA	SPAIN	17	226	T2	400
CLUB MARBELLA	SPAIN	16 & 17	123	T2	500X 2
CLUB PARQUE MESA DEL MA	TENERIFE	46	501	ST	500
CLUB PUERTO ATLANTICO	GRAN CANARIA	2 & 3	505	T1	250 EACH
CLUB PUERTO ATLANTICO	GRAN CANARIA	16	A504	T1	500
CLUB RIVIERA	SPAIN	44	7D	T2	500
CLUB SOL Y VISTA PUERTO	GRAN CANARIA	48	M5802	T1	400
CLUB VISTAFLOR	GRAN CANARIA	21/20	34/42	T1	500
CLUBE VIP VILAROSA	PORTUGAL	22 & 23	206	T1	500 EACH
CLUBE VIP VILAROSA	PORTUGAL	22 & 23	3C	T1	500 EACH
COLONIAL VILLAGE	TENERIFE	21	C33T	T2	500
COSTA SAL	LANZAROTE	42	504	T2	500
COSTA SAL	LANZAROTE	18 & 19	418	T2	300 EACH
CPO	PORTUGAL	1	A706	T1	250
CPO	PORTUGAL	BRONZE	FLOAT	T1	50
CPO	PORTUGAL	6	S18	ST	50
CPO	PORTUGAL	6	A611	T1	50
CPO	PORTUGAL	FLOAT	LOW	T0	50
CPO	PORTUGAL	3	E849	T1	50
CROWN RESORTS	SPAIN	27	31	T2	500
CROWN RESORTS	SPAIN	40	75	T2	400 X 2
CROWN RESORTS	SPAIN	16	31	T2	400
CROWN RESORTS	SPAIN	26 & 27	46A3	T2	500
DALFABER VILLAGE	UK	15	CHALET 4	T3	400
DALFABER VILLAGE	UK	15	PATIO 7	T3	400
DALFABER VILLAGE	UK	4	CHALET 4	T3	200
DONA LOLA	SPAIN	13	103	T2	250
DONA LOLA	SPAIN	19	LAUDIA 19	T1	500
DONA LOLA	SPAIN	16 & 17	112	T1	400
DONA LOLA	SPAIN	43, 44, 45	211	T2	500 EACH
EDINBOUGH RESIDENCE	UK	X 2 CLASS	CLASSIC	CLASSIC	650 EACH
EL CAPISTRANO	SPAIN	18 & 19	316	T2	300 EACH
EL MARQUES	TENERIFE	21	38	T1	300
EL MARQUES	TENERIFE	13	75	escr	200
EL PALMERAL B.C. 2	FUERTEVENTURA	HIGH	FLOAT	T1	300
ELMERS COURT C.C.	UK	6	C3	T2	100
FAIRWAYS CLUB	TENERIFE	HIGH	FLOAT	T1	400
GARDEN LAGO	MALLORCA	10	16	T1	250
HARBOUR CLUB	TENERIFE	45 & 46	27	T1	400 EACH
HAVENCOURT	UK	2	LOW	T1	100
HAZEL GREEN	SPAIN	FLOAT	HIGH	T1	175
HONEYCOMBE MANOR	UK	16	30	T?	300
IMPERIAL PARK C.C.	SPAIN	16,17	1803	T2	400
ISLAND VILLAGE	TENERIFE	30 & 31	219B	T1	750 EACH
KINGFISHER CLUB	SPAIN	LOW	FLOAT	T1	100
KINGSWEAR PARK	UK	48	FLOAT	T?	350
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