



Timeshare in Europe – 2005

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Timeshare in Europe - 2005

SUMMARY

Last year the Timeshare Consumers Association (TCA) published their report "Timeshare in Europe 2004" in which we said:-

"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"

This 2005 report takes a further look at the industry a year later to see what, if anything, has changed.

The picture is not good:-

- Sales continue to decline with some leading companies now reporting losses.
- Owners are continuing to walk-away because of declining standards and ever increasing annual costs
- resulting in a further reduction in ownership numbers.
- Fraud and deceit continue to dominate consumer and media views of timeshare in Europe
- The law has failed to keep up with the rogues and enforcement is weak or non-existent
- Industry leaders are making no effort to recover lost consumer confidence.
- Consumer views are summed up by - "If we had known it was timeshare we would not have gone to the presentation".

TCA conclude that only a much tougher regulatory regime will recover an industry of which many people had high hopes.

TIMESHARE and its ENVIRONMENT

Background

Holiday timeshare began in Switzerland by Hapimag, still a leading operator, in 1967 but only took off in the early 1970's in the USA.

The product returned to Europe (Scotland, 1975) and soon spread into all the European 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 some 5,425 resorts worldwide, 1,250 in Europe and nearly 7 million owners worldwide, 1.2 million 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 Timeshare Directive was introduced) with ownership numbers in Europe now lower than they were six years ago.

This report, the fourth by the Timeshare Consumers Association (TCA) in five years, attempts to identify the factors behind the rapid decline in the fortunes of timeshare in Europe.

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 estimate that they are aware of approximately 5% of timeshare complaints from UK citizens. The evidence in this report is based on what consumers have told us.

The report generally covers geographic Europe – marginally larger than the current 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 product groups – **'timeshare'** and **'timeshare-like'**.

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 (weeks) in a year, the natural consumer demand for holiday accommodation is concentrated into a much shorter peak season, often only 30 weeks. A developer has no difficulty selling these peak season weeks but greater difficulty selling mid- and low-season weeks.

To sell all 52 weeks the developer needs to persuade most purchasers that they will have access to peak season weeks. To do this the ownership structure has been progressively 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 many consumer complaints.

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 the inherent weakness of any booking system but possibly offering cheaper means of exchanging than using an exchange company.

Points Clubs.

There are around 80,000 members of points clubs. Points clubs have been the only mainstream 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 a week (fixed or floating) of timeshare which is temporality ceded (loaned) to the points club.
- Mix of pure and ceded .

Points clubs are a further development of floating weeks with added profit potential for the trader. A large percentage of points club members are converts from “weeks” timeshare.

Bond schemes

The purchase of a bond provides the bondholder with access to holiday accommodation, the period and the season of use depending on the value of the bond. The bond can redeemed at some time in the future depending on the rules of the scheme. The redemption value is usually lower than the original cost but almost always better to the residual value of a conventional timeshare.

Newly emerging timeshare products

Most of the recent developments have moved away from what is generally perceived as mainstream holiday timeshare and currently only represent a tiny fraction of one percent of the total volume of business in the industry.

Buy to let (and use) & Condo hotels

Consumers buy an annual period ranging from one month to one year ownership of an apartment/villa and use it themselves (without further charge) for a portion of that time, any unused portion being let out by the management company to generate revenue for the purchaser. The investment is often promised to yield around 8% annually. Some buy to let/condo hotels schemes are for business – not leisure - use

Fractional Ownership & Private Residence Clubs (PRC)

Fractional and PRC schemes are essentially a floating week timeshare system but utilising larger units of time such as two months ownership each year. Existing fractional and PRC resorts tend to be very small (some only consisting of a single unit of accommodation) but with very high standards of furniture and fittings in spacious accommodation together with “Five Star” service and leisure facilities, the owner having the right to use the accommodation for $\frac{1}{4}$, $\frac{1}{6}$, $\frac{1}{8}$ etc. of the year.

Fractional was originally seen as a stepping stone from timeshare to outright holiday home ownership but now appears to appeal to the very wealthy who do not want the hassle of owning a holiday home which they only use occasionally. And fractional also appeals to corporate purchasers who want something better than a hotel room when travelling. 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.

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. Many are commonly called “loophole” 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 sales of 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 – claimed over 25,000 members in 2004 but has now withdrawn any such claims from its website leaving doubts as to its true ownership base.

The active holiday clubs do provide accommodation (and flights etc) but at prices which are, at best, only marginally lower than the open market prices and are certainly not good value for the money paid for the membership.

The problem with holiday clubs are the lies told by the sales agents. Promises of :-

- Holiday anywhere in the world
- at any time of year
- in Five Star accommodation
- at prices up to 60% less than the high street.

The club operators themselves admit that they cannot deliver any of these promises.

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

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

Accommodation

There are an estimated 1,250 timeshare resorts in Europe with a total of 72,000 apartments providing 3.6 million weeks of accommodation. This number is less than five 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 five to just one.

One third of accommodation originally designated 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 mid-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 amount of available accommodation exceeding 3% a year.

Canal Boats

Another product to exploit a loophole in the Timeshare Directive involves fixed or floating time ownership in canal boats or house boats in the UK and France. The scale of timeshare ownership in boats is less than 1% of the total ownership in Europe.

Ageing & dying resorts

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 condition, a mature resort does not show its age. Resorts which have a properly managed sinking fund system are expected to remain modern 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.

Over 50 resorts have either recently ceased to be timeshare resorts or appear to be heading towards closure.

New accommodation

New accommodation construction is continuing, but at a very low level. A trade statement in 2004 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..

Three new, very small resorts have opened in Eire in 2005; de Vere expects to open a mixed use resort (hotel and timeshare) Carrick in 2006 and Resort Properties have contracted with Raddison to sell and manage Golden Sands resort in Malta. And two upmarket resorts Pullwood Bay (Cumbria) and Gleneagles (Scotland) have opened.

But the added inventory of these new, generally up-market, resorts fails to replenish the accommodation lost by closures.

Quality rating of resorts

There is no independent quality rating of timeshare resorts.

RCI and Interval International (the two major exchange companies) 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 through exchange "guests".

RCI Points also have a resort rating system based, say RCI, on a number of factors including quality and demand. This rating is used to attribute the number of points required for any specific week in a specific sized apartment in a resort. Again there are consumer concerns that the system is biased towards helping developers make sales.

Location of resorts

Spain, Italy and France contain over half of the resorts in Europe, with the UK and Portugal each with around 8%.

Whilst beach type holidays dominate there is a perceptible growth, from very small beginnings, of urban timeshare – especially in the fractional/PRC market.

The Market

The market for timeshare appears to divide into three segments:-

1. Blue collar workers. Primarily influenced by price in comparison to package holidays which they normally use. They are much more likely than the other market segments to purchase on credit, usually provided by the marketer. And, being less well informed, are more likely to fall for the misrepresentations and frauds. It is probable that this segments represents between one quarter and one third of the timeshare ownership numbers and has been the main focus of developers marketing attention in the last ten or so years. As one salesman so inelegantly put it "The thickies are easy game".
2. White collar workers. Partially influenced by price but responsive to the better quality accommodation offered by timeshare in comparison to package holiday operators. This market segment are increasingly making their own packages through the internet (low cost flights and renting accommodation)
3. The wealthy. Principally motivate by quality and service with price being secondary. Usually able to afford their own "holiday home" but prefer the security and exchangeability provided by timeshare/fractional . This sector represents less than 5% of the timeshare ownership base.

Geographically the bulk of existing owners reside in UK (32%) and Germany/Austria (25%) followed some distance behind by France, Scandinavia and Italy each with around 7%

Market Penetration

The proportion of families who have purchase timeshare in Europe is well below that of other developed world regions, despite the concept having originally started in Europe. The only explanation for this weakness is the poorer opinion of timeshare held by Europeans compared to that of other nationalities.

Despite the EU having a larger population than the USA, there are only 1.25 million timeshare owners in the EU compared to over 4 million in the USA.

Competition

Twenty-five years ago timeshare had a powerful and effective 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 of accommodation
- failure of operators to ensure a healthy secondary market so that owners can get a reasonable proportion of their purchase money back when they sell.
- failure of operators to keep annual costs at a competitive level allowing alternative suppliers to undercut timeshare prices.

Further competition has come from:-

- holiday clubs
- internet and Teletext rental services
- low cost flights, often linked to rental accommodation, available on the internet

The rapid increase in availability of low cost flights (mainly a UK phenomenon) and the expansion of Internet usage now enables holidaymakers to build their own packages “on line”. Booking a flight and renting self catering accommodation (very often in a timeshare resort) can now be done within minutes from the comfort of one's own home – a process which often produces a family holiday (flight & accommodation) for no more cost than the annual fees charged by some timeshare resorts. But getting cheap timeshare accommodation during school holiday periods is seldom possible. using a DIY package.

This trend towards internet booking is also affecting conventional package holiday companies. The UK package holiday industry estimates that between 20% and 25% of all packages are now bought on the Internet resulting in the closure of travel agents shops in the UK and a strengthening of the package holiday operators presence on the web with some offering the facility to bundle various elements to create their own “package”.

Value for Money

Timeshare no longer provides best value for money for those seeking good quality, self catering accommodation.

A survey carried out by TCA in December 2004 showed that rental of timeshare accommodation (often using the internet) provided the best value for money in all seasonal periods except school holidays when ownership of timeshare was essential to ensure availability.

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 1,050.

The industry is very fragmented - the largest 20 developers have 48% of the ownership base, leaving nearly 800 developers with the remaining 52% of owners. The largest developer (Hapimag) has 136,000 owners but there are many resorts with under 500 owners – the smallest identified has just 40 owners.

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 80 related 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 resort management.

However, from a combination of published and unpublished information it is possible to calculate that sale values have declined by between 35% and 45% over the past 5 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, 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 can 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

LARGEST COMPANIES – 2005	Total Owners	No. Resorts	OTE Member	Base
EXCHANGE				
RCI - Europe & Asia	450,000	700	Yes	UK (US owned)
Interval International – Europe	150,000	NA	No	UK (US owned)
OPERATORS				
Hapimag	136,000	60	Yes	Switzerland
Sunterra Europe	84,000	34	No	UK (US owned)
Club la Costa	50,000	20	Yes	Spain & UK
Petchey Leisure	52,000	7	Note 1	UK
Holiday Property Bond	34,500	28	No	UK
Anfi	30,000	5	Yes	Gran Canaria
Resort Properties	31,000	5	Yes	Tenerife
RMI Consortium	Note 1	5	Yes	Spain
Macdonald Hotels & Resorts	25,000	9	No	UK
Timelinx	22,500	1	No	Spain
Diversified/Crown Resorts	22,000	6	No	Spain
"John Palmer"	16,500	11	No	Tenerife
Clube Praia d'Oura	Note 1	2	No	Portugal
Seasons Holidays	18,000	8	Yes	UK
Pestana Group	18,000	7	Yes	Portugal
Mondi Ferienclub	14,000	9	No	Germany/Austria
La Dorada	13,000	8	No	Lanzarote
Intercorp Group/Select Vacation Club	13,000	8	Yes	Balearics
Heritage Resorts	12,500	6	No	Spain
Club Finland	12,000	9	Yes	Finland
TOP 20 OPERATORS (excl. Exchange)	604,000	248	9	
Note 1: Petchey Leisure bought Clube Praia d'Oura, RMI Consortium and Montechorro Beach Club in mid 2005				

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 timeshares – 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 (2004 accounting year) indications 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 2005 are expected to demonstrate the increasing imbalance between reducing sales income and increasing management fee income and profit.

Exchange companies.

Under three quarters of timeshare owners are members of an exchange company - many belonging to more than one exchange organisation.

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

RCI	60%
Interval International	32%
Dial an Exchange	7%
World Resort Exchange	1%

Whilst RCI have moved their main focus from exchange of weeks to administering their own points system, Interval International have remained with conventional timeshare (although they have linked up with an independent points scheme, Club 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 5 years at between 200,000 and 210,000 but not showing any underlying growth.

The two major exchange companies (RCI and Interval International) have a quality rating system applied to their affiliated resorts. The general consensus is that the basic scheme is a reasonably good guide to resort quality 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 RCI and Interval International appear to parallel their exchange service with rental services available to the general public, often in a manner that seeks to hide their involvement from their timeshare owner members.

Trustees

The primary role of the trustee is to provide "certainty" of rights of use by the owner by holding legal title over the accommodation. In addition trustees sometimes provide management fee collection service and stakeholder service for purchase monies.

But trustees are now being increasingly criticised by owners for allowing excessive annual fee increases and total loss of ownership as resorts are sold.

Consumer Finance Providers

A substantial volume of sales to UK citizens are made using finance, mostly provided by First National Bank (FNB), now GE Money, and Paragon Finance. Where these companies decline a borrower, some of the larger developers provide their own finance and may sell on the loan after a year or so when 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).

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

Unusually, FNB are not 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 UK 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 operated by some of the credit card companies.

Over the last year there has been an increase of complaints to TCA by consumers enticed into purchasing timeshare using finance and finding, soon after the purchase, that they are unable to met the regular repayments. The indications are that lenders are not taking enough care to establish whether the borrower is capable of repaying the loan – irresponsible lending.

The TCA information sheet “Making a claim under the Consumer Credit Act 1974” is now the second most popular information sheet (after “How to Sell”) requested by consumers.

Independent Resale Brokers and Wholesalers

Independent resellers act as agents to find buyers for timeshare owners.

Of the 300 or so companies apparently offering a resale service over the last five years less than 15 actually do make sales, the rest being fraudulent. See Consumer Fraud later.

Independent resale 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 - €1,500 or €2,000 are not unknown - which has the effect of killing a sale and “locking in” the original owner.

There are 4 *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 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.

Marketing

Timeshare must be the only consumer product where the purchaser gets neither choice nor opportunity to compare competitive offerings.

Previous reports have referred to the marketing techniques used by the industry as rooted in the dark ages where a wife was obtained by use of a club and dragging by the hair back into the cave. The timeshare story remains exactly the same in 2005.

The volume end of the market (mainly blue collar segment) has been dominated by the “bait & trap” technique for many years because it is a low cost means of creating high volume sales and ensures that consumers are not able to make inter-company comparisons on costs, standards and benefits.

At the other end of the market the Sales Inspection Visit on a “try before you buy” is still popular. And those resorts with mixed use combining hotel & timeshare are able to utilise hotel guests as prospects for a sale.

Bait & Trap Selling

The bait is usually either a scratch card at a holiday destination or a “free” holiday offered over the phone. Both are designed to get punters in front of sale people at presentations. But the banning or licensing of street touts by some municipalities and the increased cynicism of consumers has forced a move towards other methods of baiting.

Innocent package holidaymakers are transported from their hotel by the holiday rep for a “glorious day of luxury” which, unknown to the holidaymakers, is a timeshare resort where they will be good prospects for the sales team.

MyTravel, Thomas Cook, Airtours and Cosmos are known to provide prospects for resorts. Often the arrangement for these prospects are made at corporate level but it is believed that some arrangements are struck locally between a timeshare resort marketing director and the local holiday representatives, keen to improve their income.

Exchange Guests

Timeshare owners from other resorts visiting on an exchange have always been a valuable source of fodder for the “in-house” sale team and, to a lesser extent, continue to be.

Sales Inspection Visits

Guests are invited to stay at a resort for a few days at a nominal or modest cost to “sample the luxury” etc. . The invitations are by advertisements in national papers and magazines as well as by direct mailing.

Cancellations

Where there is a right to rescind, cancellation rates vary from about 15% (top end of the market) to over 70% in the volume market. One resort recently reported that every sale made in a single week had cancelled.

Where no right to cancel exists only the very toughest of consumers get away with cancelling as most operators have teams of very aggressive sales people whose task it is to “hold in” a sale by any means available including intimidation, harassment, threats of legal action (including from some dodgy lawyers).

Trial Packs

These “loophole” products, so called because they exploit a loophole in the Timeshare Directive, are fixed or floating schemes where the purchaser only has rights for under three years. Some traders regard trial packs as a form of “try before you buy”.

Pricing

Prices are immensely varied between developers often differing by a factor of three. Whilst supply and demand does play a part, it appears that aggressive selling techniques enable high prices to be charged. Both Club la Costa and Club la Dorada appear to charge nearly twice the price of other traders – making a purchase from them especially poor value for the consumer.

Secondary market prices

TCA carried out a survey of secondary timeshare prices (resales) in 2004 and again in late 2005. The results show that secondary prices have declined overall but that premium resorts/weeks/apartments are still holding their price reasonably well. But the increasing number of resort/week/apartment combinations that are now totally un-saleable is symptomatic of the overall decline of the industry.

An example of this decline is shown by the change in second hand value of Club Sunterra points which were trading between members (Sunterra ban trading except between members) at around 35 Euro to 50 Euro per (old) point in 2004 but in late 2005 were trading in the 10 Euro to 20 Euro range. The original purchase prices were in the ranges 170 Euro to 280 Euro per point. The Sunterra members website provides a market for members to sell – in 2004 approx. 20% of the adverts on the website were from buyers, now it is unusual to see a single buyer advertising and the webmaster, in order to limit the flood of sellers, has limited each advert to only run for 14 days – even then there were 47 selling adverts with not a single buying advert in early December 2005

eBay carries a few invitations to bid for timeshare weeks. A survey in November 2005 showed:-

- 61 weeks on offer
- 6 of these had received bids
- The bid/acceptance prices ranged from 35 Euro (a sleep 6, week 24 in Spain), through 100 Euro (studio, week 31 in Scotland) to 850 Euro (a sleep 4, week 42 in Tenerife)

Company profiles

Very few companies in the European timeshare sector publicly disclose their trading information preferring to hide behind nominee companies registered off-shore. But a few companies do provide enough financial information to enable a useful assessment of their performance to be made. We have selected three of the largest companies, all of whom publish transparent accounts.

The combined membership of Hapimag, Macdonald Resorts and Sunterra Europe represents nearly 20% of the total membership in Europe.

Hapimag is the largest operator in Europe, based in Switzerland, and was the very first timeshare operator in the world (1967).

- Over 80% of the 136,000 Hapimag owners are German speaking but there are a limited number of owners in Italy, UK and Spain.
- Trading performance over the past five years has been dismal
- Sales of memberships more than halved from 56 million Euro in year 2000 to 24 million Euro in 2004 resulting in losses of 3 million Euro in 2003 and 7.4 million Euro in 2004.
- Hapimag have now transferred much of their marketing effort into Italy in the hopes of improving sales performance.

“2004 was another difficult year for Hapimag” Dr Marisabel Spitz Kaspar, President, Hapimag. April 2005

Sunterra Europe is the largest operator based in the UK being a subsidiary of a US quoted Sunterra Corp. Sunterra operates both a points system (Club Sunterra with around 41,000 members) and manages resorts with around 43,000 week owners. The great majority of their owners live in the UK.

- Trading performance over the past couple of years has demonstrated a decline in sales and profits resulting in a trading loss for the year ending 30 September 2005 of 1 million Euro against a profit the previous year of over 10 million Euro
- Sunterra Europe is now downsizing marketing and head office operations and has closed a number of call centres in an attempt to regain profitability.
- In July 2005 Sunterra Europe wrote off all the "Goodwill" in its balance sheet amounting to \$55 million indicating that they have a pessimistic view of the future of the company.

"The European market has been under significant pressure during the last eighteen months" Nicholas Benson, CEO, Sunterra Corp. July 2005.

Macdonald Resorts is the successor company to the very first timeshare resort in the UK at Loch Rannoch, Scotland. Macdonald currently operate nine resorts (5 in the UK and 4 in mainland Spain) and have some 25,000 owners.

- Trading results for the years ending 30 September 2002 and 2003 show a decline in sales of 12% and a decline of profits, to 1.5 million Euro, of 53% year on year.
- The published accounts for 2004 were substantially overdue as at 30 December 2005.

Brand names

Out of the approx. 1,250 resorts in Europe, less than 15 are controlled by brand named companies. So, despite brand names bringing "respectability" – as the industry claim - their impact on the rest of the industry is negligible.

Corporate Fraud

Tax fraud

A number of companies, mainly based in Spain, have been served with demands by the revenue collectors for unpaid taxes. John Palmer and United Paradise Group (both in Tenerife) have each had claims against them in excess of 3 million Euro by tax authorities. However this is believed to only be the tip of the iceberg as the incidence of unpaid taxes, not only in Spain, is believed to be much greater than has so far been made public.

It has to be said that, had the Spanish tax authorities acted much earlier – perhaps 10 years ago – the problem might have been nipped in the bud.

Land Registry Fraud

A number of resorts in mainland Spain and the Canaries failed to register, as is required by law, the details of timeshare owners in the local land register. The saving in cost of registration and the avoidance of sales tax resulting was clearly the motive. The authorities are now attempting to correct the situation – all of which will cost owners more money. One group of resorts with 12,000

owners is asking all owners for 1,000 Euro each for the registration process. The response of the owners is not yet known!

Accounting fraud

A number of developers fail to remove owners from their list of debtors despite the owners having made it absolutely clear that they have “walked away”. TCA are aware of three major companies retaining debts from ex-owners going back 6 years (in one case over 8 years). Whilst the false figure on the debtors list is usually small in relationship the whole balance sheet it is indicative of a dishonest culture – a culture which nearly caused the collapse of Sunterra Corp (in the US) in 2001.

And this deceitful practice of keeping ex-owners on the database allows the developer to claim higher ownership than is true. (Our listing of the top 20 companies makes allowance for this practice)

Corporate Corruption

The timeshare industry has sought to enhance its profits by applying corruption and bribery at all levels.

1. Individual timeshare owners are targeted – wined and dined – to encourage them to act as “independent” endorsers of the product. This can be clearly seen in the number of owners who now act as Secretary or Chairman of an owners club who actively promote the traders views to the detriment of owners whom they notionally represent.
2. Local police (mainly Spain and Portugal) are believed to be provided with “benefits” so as to turn a blind eye to complaints from consumers.
3. National authorities and large organisations are granted “special” status enabling their employees to book holidays at heavily subsidised prices.

Organisation for Timeshare in Europe (OTE)

OTE claims to be the body representing the timeshare industry in Europe, but its influence is waning.

Trade membership of OTE has declined from 184 members in 1999 2000 to only 73 in 2005 and now represents less than 30% of the traders in the European industry.

OTE has failed to lead the industry in a recovery of consumer confidence as exemplified by the ineffective Code of Ethics, which was amended in March 2005.

The Code is ineffective because:-

- The content of the Code falls well short of what is considered acceptable consumer protection and hardly provides any greater protection than does the law.
- OTE routinely fail to enforce those elements of the Code that do provide some limited degree of consumer protection.
- The Code is not disclosed to consumers – potential or actual timeshare owners - making a nonsense of having a Code in the first place.

In common with much of the industry that it claims to represent, OTE use misleading and false statements to justify their actions and is now mistrusted by consumers, a substantial proportion of the media and even a number of their own members.

OTE has recently hived off its consumer department into the “Vacation Owners Independent Coalition in Europe (VOICE)”. The “Independent” in the title is a deceitful misnomer.

It is noticeable that OTE ceased to publish meaningful statistics after 2001 – when the industry decline became obvious.

Declining sales

At the beginning of this century most timeshare operators were reporting sales conversion rates of around 25% (25% of people who attended presentations bought) with a cancellation rate (where applicable) of under 50%. This was yielded between 10% and 15% membership.

Currently sales conversion figures are now between 10% and 20% with cancellations marginally over 60% yielding between 6% and 12% membership – an effective halving of “held in” sales over a 5 year period. This is resulting in marketing costs reaching very high levels – in one case 85 cents to achieve 1 Euro of sale.

Poor conversion ratios coupled with the greater resistance of consumers to attend “presentations” results in the overall level of sales being some 35% to 45% lower than in 2000.

Sales conversions and cancellation percentages of holiday club memberships are not as readily calculable as for timeshare – but holiday clubs appear to suffer less badly in respect of cancellations as few provide any right to cancel.

Further evidence of declining sales

- TCA have been issuing information sheets to consumers since 1998. In 2001 the number of “How to Buy Timeshare” sheets requested was equal to the number of “How to Sell a Timeshare” sheets. In 2005 the number of “Buy” sheets was under 1% of the number of “Sell” sheets.
- There are also indication that holiday clubs are suffering under the barrage of public criticism. The two largest – Club Class Holidays and Timelinx – previously so boastful of their membership numbers have become noticeably reticent in the last year. Membership appears to be down and consumers reporting to TCA seem to realise quite quickly that they have bought a “pup” and stop paying the annual fees.

Industry response to downturn in business

There are almost as many different responses as there are traders as the industry attempts to resolve the problems caused by the downturn in business.

Smaller companies, often guided by an entrepreneurial individual only experienced in operating in an expanding market, are finding it more difficult to cope with a weakening market environment than larger companies with a longer history of corporate management behind them.

The approaches fall into two categories.

Fight the problem

A knee jerk reaction typical of small companies, of which there are many in the industry, seeking to solve short term problems in the hope that longer term will solve itself.

- increasing revenue by:-
 - raising annual fees and seeking additional payments in the form of levies
 - becoming more aggressive at selling
 - introducing “upgrades” – more money for no improvement in benefits
 - taking a commission from holiday club agents operating on their resorts
- retaining existing owner income by:-
 - banning existing owners from selling in the open market.
 - charging high transfer fees for owners actually making a sale - sometimes over 2000 Euro for ownerships only worth 500 Euro
 - taking owners to court if they fail to pay their annual fees

Turn the problem to their advantage.

A combination of short term cash flow retaining activates (as above) to provide time for longer term strategies to become effective in recovering profitability.

- improving sales performance
 - closing inefficient call centres
 - concentrating on existing timeshare owners who do not have to be sold the benefits of timeshare
 - enlarging “try before you buy” trial pack operations.
 - renting out empty accommodation

And many traders are:-

- ignored the law whenever possible in the knowledge that there is a lack of local enforcement.
- ignored the OTE Code of Ethics, where applicable

The more progressive traders are:-

- Strengthening links with package holiday operators to fill empty beds. One timeshare resort admits that 70% of its capacity is used by an ABTA member throughout the main holiday seasons.
- Operating rental schemes, often with their own websites, perhaps helped by RCI.

A fairly recent phenomenon is the increase in the number of employees and ex-employees contacting TCA to “spill the beans” or complain of not being paid.

Fewer timeshare resorts.

Many traders have recognised that the “going concern” value of a resort is only a fraction of its value for re-development. A resort which may be valued at one million Euro for timeshare purposes may well be worth 20 to 30 times that amount to a property developer planning a hotel, holiday complex or similar.

This recognition is resulting in an ever increasing number of timeshare resorts being closed and sold for re-development – or having a change of use to rental; package holiday occupation or holiday homes.

Various techniques are used by traders to remove timeshare owners who are the only barrier to realising these high selling values. Typically:-

- Increasing annual fees greatly in excess of inflation
- Demanding unexpected (often unsubstantiated) additional fees (“leviys”)
- Failing to carry out routine repairs and renewals so that the resort loses exchange facility
- Refusing to transfer ownership to a new buyer (leaving an unwilling owner who may just walk away)
- Encouraging owners to join a proprietary club controlled by the trader (offering illusory extra benefits) in exchange for their ownership certificates until the trader has sufficient votes to close the resort

Making allowance for the few new resorts that have opened, and those resorts that have created additional inventory, it is estimated that the amount of inventory available to timeshare owners is now 4% to 5% less in 2005 than it was in 2001 – and the rate of decline is increasing.

Owners suspicious that their resort may be targeted for closure naively believe that their “Trustee” will ensure their ownership rights for the full period of the trust agreement. But trustees appear to be colluding with developers (perhaps in return for a percentage of the eventual sale value) in assisting the closure.

The largest number of owners to be affected by a single resort closure was 16,500 at the Lanzarote Beach Club, which is now the subject of legal action in Spain.

Rental of Timeshare accommodation

There are now many hundreds of websites offering timeshare accommodation for let. One of the largest in Europe, Paramount, offers rental into nearly 10% of all timeshare accommodation in Europe on a weekly basis at prices close to those paid by owners as annual fees. Many other websites are offering exactly the same accommodation at prices half of the annual management fees.

CONSUMERS

Consumer confidence in timeshare in Europe continues to decline.

Timeshare “Owners”

From the very earliest days purchasers of timeshare have been called “owners”. However the concept of timeshare ownership differs from the normally accepted concept of ownership.

Timeshare owners only own rights to use accommodation subject to certain conditions, principally that they pay the annual fees on demand. Essentially timeshare ownership is a long term contract in which the owner and ownership is under the absolute power of a trader.

A TCA survey in 2001 identified that only 29% of all timeshare owners considered themselves to be in a democratic environment – the remaining 71% were to a greater or lesser extent without any control. There are no indications that ownership of timeshare is any more democratic in 2005.

Consumer attitudes to timeshare

A general consumer survey in the UK carried out by RCI in late 2001 identified the following opinions of timeshare:-

- Very positive 3%
- Somewhat positive 12%
- Neutral 35%
- Somewhat negative 24%
- Very negative 26%

Compared to other countries the UK had a poorer “positive” percentage than three other major world regions.

There is little doubt that the overwhelming negative of view held about timeshare by consumers in Europe has substantially increased since this survey in 2001.

Buying problems

“People marketing timeshares are slick. They are not afraid to lie, cheat or steal to make a sale” UK national journalist, December 2005

The classic problems that have been media fodder for the past 15 years still persist today except that the techniques used have become even more devious and sophisticated.

However sales misrepresentation still heads the list of buying problems by a long way.

There is insufficient space in this report to detail every single trick used (see the TCA 2004 report) but the latest ones that have come to our attention are:-

- The purchaser signs an agreement with terms and conditions on the back face which they are not given a chance to see – “too many and too small and no time to read” – and are given a copy of the agreement to take away which does not have terms & conditions on the back face
- Trader denies receiving a cancellation or refuses to accept recorded delivery letters
- Trader provides a self addressed & stamped envelope for cancellation purposes which encourages the canceller not to send by recorded delivery.

Harassment

TCA have identified a major upsurge in reports of harassing, intimidator and threatening practices against consumers who refuse to buy or cancel or encourage others to cancel.

Female consumers are being sworn at; males are being threatened with physical harm. A lady in her forties, said that she had only been told to “f*ck off” twice in her life, both times by timeshare salespeople when she said that she had no intention of buying their product .

Threats of legal action by a trader against a consumer are becoming more common. In almost every case reported to TCA it appears that the threats are only intended to extract payments from consumers without any real intention of taking legal action. Even where a court claim is issued, any statement of defence by the consumer usually results in the claim being dropped.

Owning and Selling problems

Ownership has long been recognised by consumer organisations as a key area of consumer detriment, but only recently recognised as such by authorities. The principle causes of detriment are caused by the failure of traders to provide “owners” with sufficient control over the quality and costs of their ownership in a democratic environment resulting in:-

Rapidly increasing annual costs.

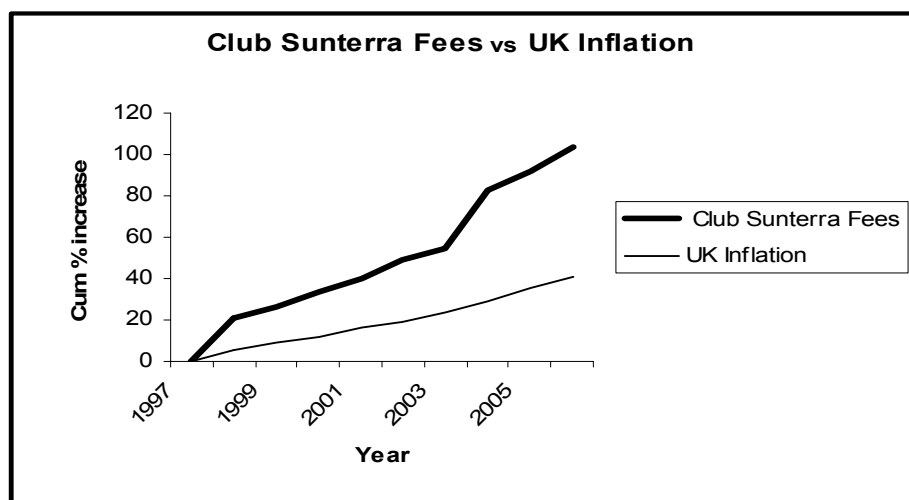
“Theft on a Grand Scale” said TCA in its survey of annual costs

Numerous tricks now being used to extract more money from owners:-

1. Where utility costs (electricity etc.) were previously included in management fees, a separate utility charge is now being made and the actual management fees are only increased by a modest amount to give the appearance of a low level of increase – the reality is that the two charges combined now amount to a major increase.
2. Utility charges being “notional” ie. being a standard charge unrelated to the measured consumption of the utility and clearly well in excess of the true costs – and totally unsupported with hard evidence.
3. Resorts claiming that the sinking fund is insufficient and requires “topping up” with a single, large payment. (“levy”)
4. Resorts claiming exceptional costs (which the developer should be bearing) but which are dumped on the owners.
5. Resorts claiming that an old, massive, debt to the management company exists from the owners and is now required to be repaid.
6. Resorts claiming that immediate repairs are required to keep the resort in good condition or to satisfy some (un- substantiated) requirement by health & safety authorities.
7. One resort (Loch Rannoch Highland Club) which effectively wrested control of the management from the developer (Macdonald Hotels) in 2003 found that the cost of running the resort was substantially less than Macdonald had previously charged.

The result of all these tricks has been to increase annual ownership costs two to three times faster than inflation.

The chart on the left shows the increase in annual fees for Club Sunterra members compared to UK inflation over the same nine year period. Over this time Club Sunterra fees have increased on average 2½ times faster than inflation.



Source: Club Sunterra

The average increase each year for the past five years for a “basket” of over 200 resorts is almost twice the level of inflation.

But averages hide massive variations. Some smaller resorts have only increased by 5% over the a 10 year period when others, mainly those controlled by the larger traders, have increase by over 200% (ie. by a factor of three). One resort has never increased its fees in a 10 year period – another has increased them by over three times inflation every year.

Levies (additional charges) have gone from being the exception to being commonplace and in some cases have had the effect of more than doubling the annual cost in one year - a nasty surprise to those owners on fixed incomes. Levies are now so established that one resort justified its reason for applying a levy as “everyone else is doing it”!

Poor or non-existent resale values

Resale values of timeshare (and points) now fall into two distinct groups – those worth something and those that are worthless. And, with so many sellers now in the market, very few owners actually achieve a sale.

High season weeks in top quality resorts are still achieving actual (as opposed to “valuation”) resale values between 15% and 25% of the developers price. The majority of weeks achieve resale values of a few hundred Euro at best, many are completely worthless, despite having cost upwards of 10,000 Euro to purchase only two or three years previously.

Low or non-existent resale values are mainly caused by a lack of buyers – a problem caused by the collapse of consumer confidence in timeshare.

The “Millstone of ownership”

Caught in a trap between a worthless timeshare and an aggressive management company demanding payment of ever increasing fees, owners have nowhere to turn.

Many owners fall victims to the resale fraud, paying hundreds or thousands of Euro to a company that promises to sell their timeshare for as much as they paid for it – most owners are completely unaware of the true market price having been told by the salesman many years earlier “it’s a good investment, you’ll get all your money back when you sell” .

There are at least 20 groups of resorts now threatening to take owners to court for non-payment of annual fees. Most of these owners have attempted to sell their ownership without success and those who have been taken to court now find themselves with millstone round their necks for the rest of their lives - and perhaps the lives of their children also.

Spoilt holidays

As well as having their expectations dashed, timeshare holidaymakers now complain about the persistent, aggressive unwanted attentions of salespeople throughout their holiday.

Frauds on Consumers

Fraud against consumers has increased in intensity, sophistication and spread during the last year.

The TCA report in 2004 listed the then major frauds, this current report only includes those frauds which have changed or been added since last year.

TCA have identified two areas of consumer fraud:-

Within mainstream timeshare industry itself.

More companies are now acting fraudulently, with more complex and clever frauds against more people than in 2004. And some of the newer entrants to the fraud game are those businesses which, until a couple of years ago, were regarded as being a respectable part of the mainstream timeshare industry

Examples:-

- At one UK resort the manager was believed to have stolen around one million Euro over a five year period. A year after the theft had been identified the timeshare owners were levied with almost exactly that amount so they effectively paid twice and the manager got away without any charge.
- The buy/sell scam has resurged after a few years of semi-dormancy. This was the one of the two frauds for which John Palmer was incarcerated – promising to sell an existing ownership if the consumer purchased a new one – only to end up with two timeshares. The scale of the scam is unknown but consumer detriment probably amounts to a few million Euro each year.
- The rental scam (the other fraud for which Palmer was convicted) where the trader promises to rent out the newly acquired timeshare every year to make a profit for the owner. Other than a pay-back in “year one” no more rental is paid to the owner.
- Investment fraud where the consumer is persuaded to “invest” in timeshare weeks which, claims the trader, will be resold at a profit within a few months. The resale does not take place leaving the “owner” with unwanted weeks and an obligation to pay annual fees or lose the “investment”. The scale of this fraud is large, probably amounting to 20 million Euro each year and appears to be spreading.

On the periphery of the industry

- The resale fraud, where timeshare owners are persuaded to part with money to a company claiming to have sold their timeshare (usually for a price five times greater than the true market price). No sale takes place. Whilst the average amount stolen from consumers is around 1,000 Euro, the large number of owners who have been caught – possibly over 25% of all owners – make the fraud enormous in real terms. And this fraud, perhaps above all others, has significantly influenced owners negative attitudes towards timeshare.
- A couple of new variations on the resale scam:-
 - The owner is invited to attend a meeting (in Spain or the UK) to transact the sale of their timeshare. The real purpose of the meeting is to sell membership of a dodgy holiday club and the owner never receives any money for their timeshare.
 - A company claiming to be lawyers extract money out of owners who have been caught in the resale scam. None of the promised “compensation” materialises.
- Telephone promises of holidays that never materialise despite the consumer having paid.

Almost all “peripheral” frauds on timeshare owners originate with a telephone call raising the question “how did they know I was an owner – and they know my resort”? Over the years TCA has received offers of owners lists in mistaken belief that TCA might want to acquire the lists and when samples were supplied it was abundantly clear that the lists emanated from within RCI. Whilst RCI would no doubt deny any involvement in these lists getting into the hands of fraudsters it does suggest that RCI security of sensitive data is inadequate. And lists from other sources (including holiday clubs) are also in circulation, probably “liberated” by a departing salesman planning a new career in fraud.

In a recent demonstration of American openness, Marriott Vacation Club International issued a public warning to its 200,000 owners about the possible misuse of the database which had been stolen from their Florida offices.

Consumer Complaints

The level of complaints about an industry are a valuable measure of how that industry is perceived by its customers. In the case of timeshare – badly.

Consumers generally accept that larger companies generate more complaints than smaller ones, but the experience of TCA – who receive some 50 contacts every working day from consumers - is that the number of complaints about an individual trader is not a function of size .

Of the top twenty developers in the industry Hapimag, HPB and Interval International failed to produce one single complaint to TCA during 2005. All the other seventeen “big boys” generated complaints with Club la Costa, Macdonald Resorts. Petchey Leisure (RMI Consortium and Clube Praia D’Oura) , Resort Properties & Sunterra producing more than their fair share.

But complaints about the Spanish Resale scam and holiday clubs outnumbered complaints about mainstream timeshare by a factor of three to one.

Some comments made to TCA during 2005 by consumers.

- “after the horrific problems with Holiday Advice Bureau (a Spanish resale scam) I’m frightened to answer the telephone”.
- “Norman Anderson (manager, RMI Consortium) was so objectionable to my wife that she was in tears for hours afterwards”.

- “Adrian Gleeson (Graig Park Marketing) told my pregnant wife that he hoped she would lose her baby”
- “The only way out of the resort (Pearly Grey, Spain) was by taxi – we were trapped and the salespeople pestered us morning noon and night all through our holiday. Which was no holiday at all”.
- “We drove nearly three hours to collect our prize as they said it wasn’t timeshare. Only after four hours being bombarded by three different people did they admit that it was timeshare. We walked out to loud comments about “so you can’t afford it, then” from the salesman (Shakespeare Classic Line)”
- “Last year we paid them (La Dorada, Majorca) £35,000. Last week we found we could get the same for £1,500. We feel gutted”.
- “They (Club la Costa) made us sign a loan agreement which we simply cannot afford to repay. We told them that but they kept on saying they would make it so that we could afford it”
- “Walking along the street in Malta was just like fighting your way through bandit country as touts pestered you everywhere, even inside a shop where we sought refuge.”

The Office of Fair trading , London, receive around 4,000 complaints about timeshare each year. In comparison to the level of complaints about package holidays, timeshare complaints are proportionately four times higher than those for package holidays.

Other complaints refer to unfair restrictive practices:-

- Refusal to transfer ownership unless bought through the trader
- Refusal to allow an independent exchange company to operate on their resort
- Refusal to transfer ownership if sold for less than price bought from the trader
- Refusal to allow use of facilities outside week of ownership if not bought from trader.

Complaint Handling

It appears that some organisations (notably Club la Costa, RCI & Sunterra) have substantial departments whose sole task is to tell complaints to “get lost” – usually in a long letter totally avoiding the actual complaint and extolling the benefits of membership of their organisation – often the very matter complained off.

TCA has seen copies of extended correspondence between timeshare owners and traders where the trader persists in denying responsibility – the “not me, mister” defence - when all the evidence indicated otherwise. And, even when a trader eventually concedes a mistake they fail to advise the consumer or offer an apology, just leaving the matter to die.

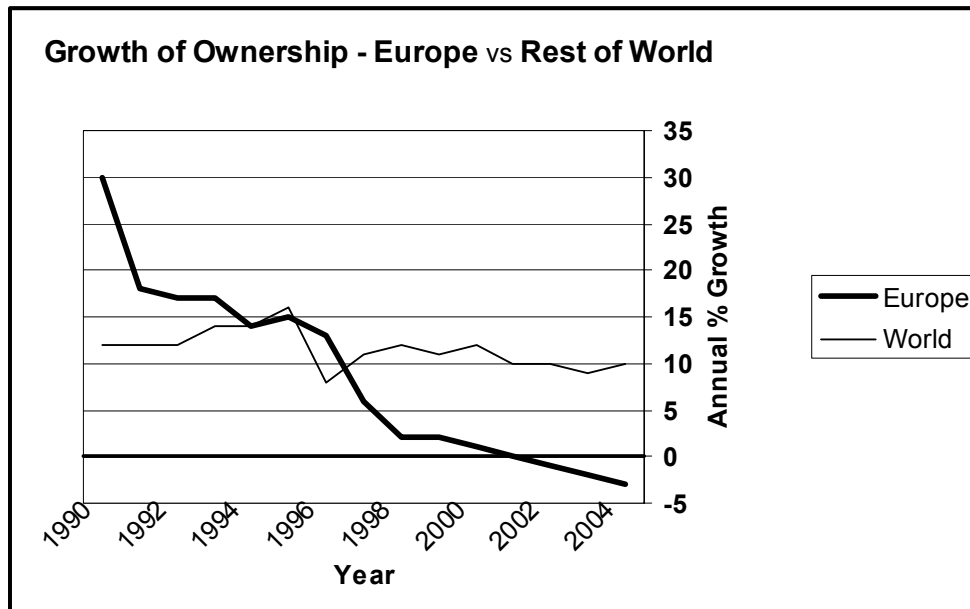
Declining ownership

Refuseniks and Repossessions

The whole subject of refuseniks & repossessions is highly complex with some resorts willingly repossessing ownership from defaulters and others actively pursuing defaulters into court. And a number of traders are, usually secretly through wholesalers, buying back weeks for very low prices so as to either take over control of the resort (for sale for redevelopment) or for rental purposes.

For example, Sunterra Europe invited Club Sunterra members to sell back their points to the company. Sunterra Europe claimed that it had spent £650K on this buy back process based on reverse “tenders” with the lowest being accepted. It is estimated that Sunterra bought back 2% of their issued points – at under 10% of the original purchase price - and they plan to carry out the same exercise in 2006.

Declining sales coupled with increasing repossessions is steadily reducing the number of owners in Europe.



Source: 1990 – 2000 Organisation for Timeshare in Europe (“OTE”)
2001 – 2005 Timeshare Consumers Association (“TCA”)

MEDIA

The media have played a substantial part in the reduction of confidence in timeshare by alerting consumers to the anti-consumer practices within the industry.

95% of media coverage of timeshare in Europe is negative despite occasional attempts by the industry to disseminate a happier message.

TV coverage of timeshare, especially in the UK and Scandinavia, has concentrated on the distress resulting from consumer contact with timeshare and holiday clubs – which the media are unable to differentiate between. National press coverage in Germany, France and to a lesser extent UK, has taken a slightly more balanced view with new developments receiving some acclaim alongside the criticism.

Internet websites are now a major source of information for consumers although the plethora of “advice websites” tends to confuse consumers as much as assist them. The three main “Black Lists” of fraudulent companies (Crimeshare, APAF-VTP (French) and the German, Schutverienigung fur Time-Sharer) combined contain nearly 1,650 names with a new name being added every working day.

Internet forums, whilst very modest in their breadth of readership, are becoming a more powerful weapons for alerting consumers to problem hot-spots and it is noticeable how many traders, incognito, now place “good news” messages on forums in an attempt to forestall the negative comments.

But the media do not always play a consumer protective role as TCA have identified at least two rogue “resellers” who have obtained advertising space in newspapers, magazines and television. Complaints to the media carrying these adverts has been met with total silence but, an, unrelated, senior advertising executive commented that she thought that publishers were hungry for any advertising revenue and were not too concerned at the adverse impact that it had on their own readers/viewers.

TV crews attempting to film frauds in progress have been threatened with, and occasionally suffered, physical harm.

Owner Satisfaction Surveys

Surveys are mainly carried out by two groups:-

1. The industry for use in promotion. These surveys are set up so as to produce very high satisfaction ratings by careful selection of the owners and subtle choice of the questions asked.
2. Consumer oriented forums. These surveys are designed to provide a balanced view of consumer views but suffer from:-
 - a. The fact that most consumers who contribute to forums usually do so because they are dissatisfied
 - b. The known problem that a satisfied person does not broadcast his satisfaction, whereas a dissatisfied one does.

LAW & ENFORCEMENT

The declining enthusiasm of authorities to confront the consumer issues raised by timeshare industry practices suggest that they now consider the industry as incorrigible.

Law

Various laws are relevant to the purchase and use of timeshare and timeshare-like products.

The Timeshare Directive:

The Timeshare Directive, which forms the basis of the principle law in each EU member state, has not been revised for 9 years - during which time major changes in product and practices have evolved.

The Directive:-

- Defines Timeshare in a very narrow manner which has created loopholes through which traders have driven a coach & horses. The three main loophole products being:-
 - trial packs (falling below the minimum 3 year purchase period in the Directive)
 - canal boats (falling outside the definition of “fixed accommodation”)
 - and holiday clubs (falling outside the Directive “ascertainable accommodation”).
- Provides a minimum 10 day right to cancel. Unfortunately this has been transposed into a wide variety of periods in different EU states – 14 calendar days (UK); 15 working days (Belgium) and 15 calendar days (Cyprus) - much to the confusion of purchasers.
- Provides for a total ban on deposits. But Spain, uniquely, allows deposits to third parties in direct contravention of the Directive.
- Require a standard list of information to be provided to the purchaser in their own language.

There is further consumer confusion as the UK Timeshare Act applies to a person normally resident within the UK irrespective of where they buy within the EU.

The Directive says nothing about post contractual matters – ownership – which is now a major area of distress to consumers.

Doorstep Regulations

- Provides a purchaser at home with a 7 day right to a cancel any purchase made as a result of an unsolicited visit.
- But a court decision in Spain (1999) established that the Doorstep regulations also apply to a purchase made as a result of an “excursion” by the consumer to a sales presentation. This means that anyone enticed off the street in Spain (including Canaries and Balearics) to a presentation does have a 7 day right to cancel. Again, consumers are confused as to why this ruling should not also apply in other EU countries.
- This regulation has been used as the basis of the undertakings obtained by OFT, with rather limited effect, against a holiday club called Designer Way Vacation Club (DWVC) and its selling agents.

Distance selling regulations

- Provide a purchaser with a 7 to 14 day (dependant on the country of domicile) cancellation period for goods or services bought by telephone, internet etc. This regulation is being increasingly used by victims of the resale scam to cancel and, in some cases, recover money paid.

Consumer Credit Act 1974

The Consumer Credit Act 1974 provides that a lender has joint responsibility for the services provided by a trader who introduces the lender.

A great many purchasers are now making claims against their lenders – mostly credit card companies – on the grounds that the trader is in breach of contract or misrepresented the service (or both). Not all claims are successful as card companies increasingly ignore claims or put artificial barriers in the way of claimants. However those claimants that take a claim to the Financial Ombudsman Service for arbitration are, more often than not, successful in their claim.

Unrelated to the Consumer Credit Act 1974 is the voluntary “charge back” scheme operated by credit card companies whereby the card company will claw back a deposit if the consumer cancels in writing within 10 days.

An encouraging trend is the increasing number of traders – timeshare and timeshare-like – who are refunding a deposit to a purchaser who has cancelled within 10 days, no doubt in the hope of avoiding losing their credit card merchant facility should they incur too many “charge backs”.

Enforcement

Enforcement is at the best patchy, at the worst, non-existent. Although some of the failures to enforce could be put down to poorly worded law which traders find easy to circumvent.

Breaches of the law are becoming commonplace as traders struggle to make and hold in sales:-

- denying a right to a cancellation period where one exists either under local law; UK law or OTE code of ethics.
- Taking a deposit (often by giving spurious reasons for the payment) contrary to the law.. And refusing to return the money following a legitimate cancellation

But the biggest gap in the current laws is the lack of protection for consumers against the use of verbal misrepresentation by sales people.

Most written purchase agreements, and especially those for holiday clubs, say very little about what the consumer is purchasing - just “membership of XYZ Club” - and say nothing of the real benefits they believe that they are acquiring. But, for the purchaser to decide on agreeing to the purchase they will have been given a list of benefits, all verbally, on which they relied to make the purchase decision. This is akin to being shown an apparently bulging paper bag and being told that it contains loads of goodies. But they only get to open the bag after they have signed (or the right to cancel period has expired). To find it full of hot air.

In the UK, trading standards officers are being successful in ensuring compliance with the Timeshare Act but not successful in dealing with misrepresentation – possibly because the laws they have to work within are poorly drafted.

The UK police appear totally disinterested in timeshare fraud, even when presented with dossiers demonstrating substantial frauds within the UK.

In Spain the police move very quickly to stamp out frauds which are affecting their own countrymen as was seen in a recent case Madrid, but are rather less speedy to stamp out frauds affecting other nationalities. Whilst some non-Spanish nationals have been successfully convicted (and jailed) for frauds against other non-Spaniards it is noticeable that certain key fraudsters escape prosecution suggesting that the police are being influenced not to take action against them.

Consumer groups taking legal action

In Germany, France and the UK, consumer organisations are initiating action to resolve consumer problems by taking alleged fraudsters to court and seeking compensation for victims.

In Germany this takes the form of numerous small claims in local courts which is only made possible by the practice of most German householders to have legal insurance which covers such claims. However changes in the law in Germany may soon enable Germans to launch “class actions”.

In France and UK, where individual legal insurance is less common, there is greater concentration on large group actions in order to share costs widely enough to make it attractive to victims to contribute. One recent success was the group of 13 French families awarded nearly ¼ million Euro by a Lanzarote court and victims of John Palmer are hopeful of receiving over five million Euro in compensation when the assets of bankrupt Palmer are sold.

Using the experience gained from the successful claim for compensation against John Palmer the TCA has embarked on a number of group claims for compensation against European timeshare traders.

THE FUTURE ?

In February 2002 the TCA said:-

“Is there a future for timeshare in Europe ?”

“Unless action is taken soon, which will result in a recovery of consumer confidence , there is every possibility that sales of timeshare in Europe will cease in the foreseeable future”.

Nothing has happened in 2005 to change our view

Notes

1. The following exchange rates are use to convert currencies into Euro:-
 - a. US Dollar 0.8 Euro = \$1
 - b. Sterling 1.4 Euro = £1
 - c. Swiss Franc 0.65 Euro = 1SwF
2. The earlier TCA reports can be found at www.timeshare.org.uk/reports.html

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