

**Summary of speech given by Sandy Grey
Chairman, Timeshare Consumer Association**

**To the “workshop” on the review of the Timeshare Directive
European Commission
19 July 2006**

Introduction

We believe that consumer confidence in European timeshare has collapsed.

Elsewhere in the world confidence is holding up very well. In America the industry is buoyant with an annual 10% growth rate and in Asia it is growing even faster. But in Europe there are now 6% less owners than four years ago and the decline in owners appears to be accelerating.

And we don't have to look very far to find the results of this collapse in confidence:

1. A recent OTE report showed that 9½ % of the potential American market have bought timeshare - yet only 2¼ % of the potential in Europe have bought, where timeshare started in the first place.
2. The two biggest developers in Europe, **Hapimag & Sunterra Europe**, both recently published financial reports showing that they are trading at a loss. And they are not the only companies known to be struggling financially.
3. Two independent reports, published by the OTE, on the number of timeshare resorts in Spain identified **512** resorts in year 2000 and only **327** last year.

I have no idea which timeshare industry Mr van der Mark of OTE was talking about so optimistically – perhaps there is a timeshare industry on the **Moon** ?

Consumer organisations have a much clearer picture of where the problem really lies.

The **Association of Timeshare Consumers in Europe** - ATCE - is a group of independent timeshare consumer organisations based in Greece, Germany, France, Sweden and the UK. All of whom are present here today.

As a group we fully understand what has caused this collapse in consumer confidence as more than 60% of all timeshare owners live in the countries we represent - and we talk to about eight thousand owners every year.

I would like to start by taking a look at the three stages of a consumer involvement in timeshare :

1. Buying
2. Owning
3. Selling

Buying timeshare

The buying process which is the only process addressed by the existing Directive.

There is a general consensus that three loopholes exist within the Directive and that these loopholes should be closed. We agree. These loopholes are:

- Timeshare in boats
- Timeshare for less than 3 years - commonly called “trial packs”
- holiday clubs

It is reasonably easy to close these loopholes in the new Directive by changing the definition of “timeshare” to include all holiday products *which provide use of two or more separate periods of occupation.*

And the new Directive should be applicable to all “Business to Consumer” transactions which would then include re-sales and upgrades and any other schemes that the industry chooses to invent.

But the biggest loophole, only now fully recognised, is the failure of the law to require all promises to be in writing. Verbal misrepresentation - **lies** - are the main tools of the salesman.

- “Of course you can take your family away in peak holiday season” they say. Which may only be true if you are willing to share your bed with ten strangers – perhaps it could be fun, perhaps not
- Salesmen claim “All future costs are controlled by the owners” conveniently forgetting to say that the “owners” are, in fact, the developers.
- Others claim “this is an excellent investment, you will get all your money back when you sell”. The reality is very different and the owner will be very lucky to make a sale at any price. Many timeshare weeks are totally worthless.

If we can remove the problems caused by the lies told by salesmen then a great many of the complaints from purchasers - and especially from owners of timeshare - will disappear.

There already exists a requirement in the Directive to provide written disclosure of certain matters. This requirement should be extended to include all the promises currently made verbally – principally promises about the availability and future costs – to ensure that there is “certainty” for the buyer.

And finally in the buying stage, it has long been recognised that purchasers must be free – before they finalise any financial commitment - to satisfy themselves that the agreement they have signed is:-

- Affordable
- Good value for money
- What they actually want

Thus a cooling off period is essential. With ever increasing length of holidays being taken throughout Europe we consider that this period should be not less than 28 calendar days. This will have a future proofing effect as holiday periods get longer.

And to ensure that purchasers can make an unencumbered decision, the absolute ban on the taking of a deposit should be retained. But with a change of wording to “a total ban on the taking of money for any purpose” as a number of traders are utilising newly invented loopholes to get around the ban on deposits.

Owning timeshare

Ownership has been totally neglected by the Directive and has now become the major battlefield between trader and consumer.

The three main issues are:

1. Annual costs of timeshare ownership are increasing faster than all other general living costs. Over a ten year period timeshare fees have doubled whilst living costs have only increased by one third. For retired people – and many timeshare owners are of retirement age – this is a cost they simply cannot afford. Many regard these excessive fees as theft.
2. Resort standards are declining. Owners have provided money to maintain quality standards of their resorts which is not spent on the resorts but simply “disappears”. Yet more theft
3. The aggressive, persistent, harassment of owners by sales people trying to get yet more money out of them. Consumers take holidays to have a break from the rigours of working life, not to be pestered morning, noon and night by sales people.

But the most common complaint the ATCE group receive from owners is the lack of availability.

Having spent many thousands of euro on buying quality holidays in the future, owners find that the holidays are not available forcing them to pay more money for alternative package holidays or similar. The exchange companies are often those responsible for failure to deliver the holidays.

There is now good evidence that exchange companies rent timeshare accommodation to ordinary consumers – accommodation that should be available to owners for exchange. A number of owners are now getting together in groups to take a claim for compensation for this lack of availability to the courts.

But if this wasn't bad enough there is now a new evil for owners - the closure of resorts.

Resorts are being shut at an alarming rate to enable developers to use the property for rental; hotels; holiday homes and the like. Having sold the property first to timeshare owners the developer is now selling the property again to make even more profit.

Owners are being forced out without compensation, losing all their original “investment”. It makes no difference whether the resort is structured as real estate (Escrituria) or under a trustee - the developer manipulates the management to take full control of the resort and throw the owners out.

A number of complaints about loss of use by owners are now coming to the courts throughout Europe. The publicity surrounding these court cases will do further damage to the reputation of the industry. Damage it can ill afford.

The solution to all these ownership problems is to give ordinary owners absolute control over the manner in which their resort or club is run without any interference from the developer.

In resorts where this control has already been established the annual fees have been reduced, quality standards have risen and owners are again enjoying their holidays undisturbed by pestering salesmen.

This democratic control could be included within the original sales disclosure document with a statement to the effect that “full control over the club or resort is in the hands of the consumer owners alone.”

Selling timeshare

It is estimated that over one third of all owners now want to sell.

But selling a timeshare is now a nightmare. Most owners who want to sell cannot do so because the loss of consumer confidence has killed off the natural free market because there are too few consumers wanting to buy a timeshare.

Those few owners who do succeed in making a sale get, at the very best, a quarter of the original purchase price they paid. But many timeshares are totally worthless. Owners cannot even give them away - and this is especially true of holiday club memberships.

Owners unable to sell have two problems –

1. Being locked into their ownership and forced to carry on paying annual fees - effectively a millstone round their necks for the rest of their lives. Many are being taken to court to enforce these payments
2. Crooks pretend to owners that they have sold their timeshare for a price close to that they originally paid in order to steal money from owners. These crooks get away with this deceit because the owner still recalls the original salesman’s phrase ringing in their ears “you’ll get all money back”.

One workable solution to the resale problem would be to include a warning in the sales disclosure document “What you are buying may be worthless when you come to sell it”.

But we would greatly prefer for the resale market to make its own natural recovery as a result of improving consumer confidence in the product. As more consumers want to buy timeshare, second hand prices should increase.

Conclusion.

As we have already seen, the European timeshare industry uses every trick it can find to get round the law. And the industry has totally failed to provide any form of consumer safeguards, being more dedicated to grabbing short term profit than creating a long term future.

The OTE Code of Ethics is as useful as lipstick on a pig when it comes to providing consumer protection – and few of their members comply with the Code which OTE routinely fail to enforce.

And enforcement of existing laws by the police is poor or non-existent, especially in Spain where timeshare is very widely sold.

So to be certain that a new Directive is fully implemented and enforced there is a need for a Europe wide timeshare licensing system. This licensing system should be backed by criminal sanctions that can provide a safe environment for consumers but will allow honest, serious and responsible traders to operate freely.

One major benefit of a licensing system would be for individuals seeking redress & compensation. Currently individuals with a grievance avoid taking legal action because of the cost, emotional stress and bullying tactics of the traders – a licensing system with built in enforcement would overcome that problem.

However, we are still convinced that timeshare has a valid role to play in the holiday market place. But unfortunately that role is being progressively destroyed by the very large number of rogues both outside and inside the European industry. Some of whom are present here today

If we can force the rogues to act in a consumer friendly manner – and educate consumers about the benefits of honest timeshare – then consumer confidence will slowly recover.

But there is now a real urgency to this recovery.

A number of developers have already ceased making sales because of consumer resistance and, alarmingly, five weeks ago, **Sunterra Europe** issued a statement that it had stopped all new timeshare sales and had sacked the sales staff. A statement that sent a shock wave through the industry.

So unless we – that is everyone here today – make a sustained effort to restore consumer confidence then in 10 years time we will not have a timeshare industry in Europe – or even on the Moon

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