

REPORT: TIMESHARE IN EUROPE
“The experience of European Consumer Centres (ECCs)”

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1 INTRODUCTION

1.1 The experience of ECCs handling complaints

European Consumer Centres (ECCs) are a network of 14 entities that provide European consumers with information and assistance. There are ECCs in twelve EU Member States (Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and the United Kingdom). Their operations are funded partly by the European Commission and partly by the bodies hosting ECC offices.

Most ECCs were created in the 1990s with the introduction of the Single European Market. The new economic framework and the elimination of border controls between European countries greatly encouraged the exchange of goods and services among consumers and vendors within EU territory and, as an inevitable corollary, there was a rise in complaints by consumers against vendors and companies based in countries other than the claimant's home country.

ECCs play an active role in raising awareness of the rights and obligations of European consumers, by issuing publications, providing consumers with direct, personalized guidance and disseminating information through the media. As consumer-protection legislation in the EU differs from country to country, the Single Market can sometimes work less smoothly than it should, but ECCs have helped to mitigate that effect by making information available to consumers – both in their home country and in the prospective vendor's country – before they buy a product or sign up for a service.

In events of cross-border litigation, ECCs offer to mediate between the conflicting parties in order that they may reach an amicable settlement benefiting both litigants. This service is provided entirely free of charge. It is often the only way that consumers, once back in their home country, can contact the vendor and put forward a claim without language barriers becoming a problem.

During the time that the network has been in existence, ECCs have found that certain consumer transactions give rise to a disproportionate number of inquiries and complaints, even to the extent that the ECC network has come to agree that such transactions are clear and specific instances in which the Single Market functions poorly, drastically affecting the finances of a considerable number of European consumers and, as we shall outline later in this report, also adversely affecting consumers' family and personal life, because of the psychological implications of these

contracts and the special circumstances under which they are made. The complaints in question are brought against companies that sell the holiday product called "timeshare property" and other substantially similar products under different names. These products are mostly marketed on the southern coasts of Spain, the Canary Islands and Portugal. Lately, these products have also been sold in other touristic destinations like Greece and "candidate countries".

Tourists from throughout Europe who spend their holidays there are recruited by industry sales reps by means of wholly misleading and deceptive techniques. If, as so often happens, once back in their home country tourists realize that they have been deceived and cannot make use of the services signed up, they send a complaint to a European Consumer Centre, either in their own country or in Spain or Portugal, depending on where the vendor is based. Centres receiving complaints have as a rule tried to broker a solution with the companies complained against, but these companies have in a vast majority of cases taken no interest whatever in settling the issue.

Developments in the market have shown that, with the enactment of Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis (which in this report we shall call 'the Timeshare Directive'), the problems generated by timeshare contracts in the form in which they were then made came to an end. However, the Directive has not prevented the creation of similar products that all too easily defraud the spirit of the Directive and the laws by which it was transposed into national bodies of legislation.

This report was written by the Barcelona European Consumer Centre on the basis of contributions from all ECCs receiving complaints about timeshare contracts. On-going assessment of clearly fraudulent contracts, customer-recruitment techniques repeatedly and consistently described by consumers in their letters and at interviews, subsequent mediation efforts with the firms concerned – virtually always fruitless – and so forth, have led us to draw the conclusion that the problems involved in timeshare products can be viewed from two points of view that are almost diametrically opposed: according to which view is taken, different solutions apply.

- a) The civil-law perspective: from this standpoint one finds that contracts are often wholly inappropriate because they defraud timeshare legislation, and breach of contract by firms operating in the market is widespread. In response to this state of affairs, amendments to the Timeshare Directive may help to improve consumer protection by broadening its scope so as to cover

products which are routinely not regarded by vendors as timeshare contracts and are therefore bereft of the guarantees provided under the current Directive.

- b) The criminal-law perspective: From this standpoint, the creation of timeshare companies is viewed as solely criminal in intent, their purpose being to get as much money as possible out of customers who have been misled into buying a contract in exchange for nothing at all. This would be the reason why companies avoid stating their address in contracts, their offices are seldom registered with municipal authorities and their legal base is commonly a tax haven, the laws of which then apply in the event of any controversy with a customer.

The aim pursued by the ECCs in this report is to:

1. Inform the European Commission and other policy makers regarding the anomalous situation in the market for certain products.
2. Request that the European Commission promote direct dialogue among all parties involved: MEPs and government and police authorities across European Member States, as well as consumer authorities across, so that they may all contribute in various ways to ending the timeshare problem in Europe.

One of the outcomes of such a dialogue could be the creation of a collaborative system whereby it could be decided how best to respond to these consumer complaints, i.e., whether amending the Directive, or taking a criminal-law approach, or both, might solve the problem.

This report sets out a detailed description of the products that are causing the worst problems and the range of measures taken by ECCs to help claimants. In addition, at the end of the report we enumerate a number of measures which all ECCs agree would help to rectify this situation in the market.

The ECC network hopes that both the European Commission and the European Parliament will give due consideration to the ECCs' contribution, which closely reflects the social and economic reality in Europe. We express our wish that European institutions will, in consequence, take effective and definitive action.

1.2 ECC statistics

Percentage of complaints in 2000

Ireland	5 cases
Finland	161 cases
Austria:	145 cases
Portugal	23 cases
Luxembourg	13 cases
France	202 cases
Spain	29 cases

Percentage of complaints in 2001

Sweden:	331 cases
Ireland	36 cases
Finland	217 cases
Austria	189 cases
Portugal	40 cases
Luxembourg:	14 cases
France	121 cases
Belgium	9 cases
Spain	98 cases

Percentage of complaints up to October 2002:

Sweden	564 cases
Ireland	72 cases
Finland	117 cases
United Kingdom	87 cases
Austria	146 cases
Portugal	14 cases
Luxembourg:	50 cases
Italy	13 cases
France	20 cases
Belgium	343 cases

Most of these complaints were put forward to the ECC of Barcelona to try a mediation in those cases in which the company was based in Spain. During 2002 there has been a good cooperation between the ECC of Barcelona and national police authorities, which action is explained in the point 4.2 of this report. The ECC sent 143 fraudulent contracts to the police to help them with the investigation. However, Spanish Police authorities calculate that 50.000 tourists across Europe have been swindled by one fraudulent companies.

In most inquiries, consumers simply asked about whether they could trust the resale companies and Holiday Clubs offering them their products. This is not an easy question to answer because in each case the specific contract signed by or offered to the consumer needs to be examined in order to determine whether it meets the requirements of the law on timeshares. Furthermore, most consumers approaching ECCs had already signed a contract, and so undesirable legal and financial consequences were already taking effect.

Most of the problems addressed were to do with products designed to sidestep the applicability of the relevant national timeshare law transposing Directive 94/47/EC. These products are commonly called Holiday Clubs and holiday packages and exist in a great variety of forms. Moreover, the techniques used to sell and re-sell these products are themselves highly problematic and harmful to consumers.

1.3 Proactive / preventive action by ECCs

The usual approach taken by ECCs in terms of preventive action is to warn consumers of the risks of buying products like timeshares and Holiday Clubs. ECCs attempt to raise awareness through the media and ECC websites and by circulating their own publications. The following are examples of awareness-raising activities:

SWEDEN:

- 1 press release
- 3 press releases through the Swedish News Agency, leading to a great number of newspaper articles and radio interviews
- 75 articles in daily newspapers
- 9 radio interviews
- 2 TV interviews
- 1 half hour TV-programme on the timeshare industry and how consumers are misled. Viewership figures approached 500,000.
- Articles in monthly magazines for senior citizens
- Creation of a brochure about timeshare that can also be viewed in PDF-format on the ECC's website. The brochure was sent to 250 local consumer information offices.
- The Consumer Agency has an agreement with the Swedish Travel Organizers saying that the Travel Organizers are to warn Swedish Consumers against timeshare sellers. Due to this agreement the ECC published a leaflet with a strong warning. This leaflet is now used by all Swedish Travel Organizers and is placed in all the hotels on the destinations where timeshare is sold. The leaflet is also published on the ECC's website as a PDF file.

- Some 25 companies have been reported the Swedish and Spanish police and their names have been published on the website.
- The ECC produced a report on complaints about timeshare and sent it to the European Commission, the Swedish government and MEPs.
- Local consumer advisers, teachers and consumers have been informed about timeshare problems at different meetings and on several occasions.

FINLAND

- 1 information brochure published in conjunction with the Finnish Consumer Agency in Finnish and Swedish about the risks involved in timeshare and Holiday Clubs. The brochure is chiefly aimed at tourists travelling abroad who may be a target for unscrupulous vendor companies and was circulated at the 2001 Helsinki International Travel Fair and other events. Finnish travel agents have also received the brochure for circulation, and many agencies have it available at their holiday resorts.
- Press release promoting the brochure described above
- The Helsinki ECC also gives information about the timeshare problem on its website and warns about the most common pitfalls of Holiday Clubs, promotional holidays and timeshare resales.
- The Helsinki ECC gave 20 interviews about timeshares in 2000 and 2002.

AUSTRIA

- Several articles in daily newspapers
- Information in the Austrian consumer magazine *Konsument*
- TV features ("Help TV")
- Radio ("Help the Consumer magazine")
- Numerous press releases
- On its website, www.europakonsument.at, the ECC gives information on sale techniques and provides warnings. Partly available in English

IRELAND:

- 3 press releases published in the period from July 1999 and August 2001 during the peak holiday season. Many inquiries were made immediately after the press releases had gone out.
- In 2001, 8 radio and newspaper interviews were given, covering national and local channels, to raise awareness among the general public.
- An ECC brochure on timeshare was produced in 2000 and distributed to consumers, the main consumer organizations and MEPs.

- Collaboration with ITAA (Irish Travel Agents' Association) in August 2001 to advise the Association's 365 members, including travel operators and their representatives
- In 2002, the ECC produced a report on complaints about timeshares for circulation among MEPs and, through DG SANCO, the European Commission and Parliament.
- 36 interviews with the press, radio and TV in relation to Holiday Clubs/Timeshare.
- New 'Holiday Club warning' leaflets were produced in September 2002.
- In October ECC staff visited Dublin and Cork airports once a week in order to distribute these warning leaflets to passengers.

LUXEMBOURG:

- In 2002 radio interviews were arranged.
- Several press releases published in local newspapers
- Brochure on timeshares published by the ECC and circulated throughout the year
- The ECC will soon attend travel fairs to inform consumers about timeshare schemes.
- TV programmes about timeshares are planned.

SPAIN:

- Radio interviews
- Annual meetings with municipal consumer-information offices in order to raise awareness of the issues, share experiences and create preventive measures
- Conversations with the Consumer-Affairs Offices in Andalusia and the Canary Islands to define the problem and request assistance
- Publication of a brochure on timeshares and Holiday Clubs in English and French for circulation in Spain and abroad
- Meetings with industry associations to find ways of settling complaints
- Notices in the press to inform consumers of their rights
- Distribution of a brochure published by the Property Registrars on the subject
- Collaboration with the Spanish government's Ministry of the Interior in its investigation of certain companies.

ITALY:

- Publication of warnings in the media
- Publication and dissemination of information brochures

FRANCE:

- 2 television broadcasts,
- 2 radio broadcasts,
- 10 articles in newspapers and magazines
- 1 press release
- 1 special file about holidays in our website

PORTUGAL:

- 1 warning to the media about some of the timeshare enterprises calling attention to its selling aggressive practices and to the fact that the enterprises were not accepting the cooling-off period.
- A strong campaign (including brochures and spots on TV and radio) with the objective of publicising the new Law of timeshare
- A brochure was produced
- Some interviews to the media about the timeshare claims (after the news appeared in the Spanish journal "El País").

2 DESCRIPTION OF PROBLEM PRODUCTS

First, it should be highlighted that although Directive 94/47/EC, on timeshare properties, defines itself in its preamble as the minimum basis for common standards to assure that the Single Market works adequately and buyers' rights are protected, Article 2 creates precisely the opposite effect, because it sets forth a description of the product that is too vague. Therefore, it leaves many consumers acquiring timeshares through different contract types outside the protective scope of the Directive.

A new market of products resembling timeshares is growing in almost all EU countries. The common denominator of these products is that property developers offer them as contracts that differ from timesharing, and thus timeshare legislation does not apply to them and the guarantees protecting buyers that legislation requires are not provided. Neither do the vendors of these products provide the guarantees required by the law for contracts made outside a commercial establishment or for package-holiday contracts.

Below we describe the timeshare-type products that are most widespread in Europe.

2.1 35-month holiday accommodation

These contracts are for the use of a holiday home for a term of 35 months. The price is usually more attractive than for a true timeshare contract. Although the object of the contract is still a timeshare arrangement, the term is only 2 years and 11 months, thus defrauding one of the requirements of timeshare legislation: a minimum contract term of 3 years. By entering into a contract for a shorter term, the property developer seeks to establish the product as legally different from timeshare and thus avoid the applicability of the timeshare law. Contracts are also offered for holiday entitlements of less than 7 days in a year.

2.2 Cash Back:

The product is sold along with the timeshare property or the package holiday. This is the most lucrative business for timeshare firms. Customers deposit an amount ranging from €6250 to €11,719 on the promise of being repaid a few years on with huge interest returns. The firm claims that the money is placed under management by the Investment Department of a reputable bank, achieving a high yield. In reality, however, the money is not invested and no financial

institution has any part in the transaction; the firm simply appropriates the money illegally. The customer buys the timeshare property or package holiday from the vendor company, but the 'small print' of the contract sets forth that that ostensible vendor is just an intermediary, while the product supplier – and thus the only party liable to reimburse the money – is another firm which turns out not to be legally incorporated in Spain and hence the buyer has nobody to claim against when, as invariably happens, their money is not repaid.

2.3 Holiday Club membership contracts

Ostensibly, membership of a Holiday Club entitles the buyer to spend a number of weeks in the club's resorts on making a prior booking. Some clubs operate on a points scheme – consumers buy points that entitle them to accommodation and other holiday services.

What these contracts have in common is that they do not specify the apartment for which the buyer acquires a right of use, or where it is located. Some contracts even fail to specify which weeks to which the right of use of the apartment applies – dates are left vague and hanging in the air. While the selling-point that vendors emphasize for these deals is that they provide the consumer with attractive flexibility, what such contracts in fact do is deprive the consumer of protection under the Timeshare Directive.

Consumers who sign this sort of contract under pressure from a salesperson using carefully devised hard-sell techniques is unaware of whether or not they have a right to cancel.

Often there is no evidence whatever that a Holiday Club actually has a resort available. It frequently seems the case that what is being sold is just 'air': the future possibility of holiday accommodation, which the buyer must book, but the contract does not establish an effective commitment to providing such accommodation.

Consumers often come up against the fact that the resort they wanted is unavailable, but the contract stipulates no compensation in the event that, as it almost invariably turns out, the promised accommodation is not provided.

And yet the consumer can under no circumstances stop paying 'maintenance fees', for instance. Nor is it a viable way out to resell the membership contract, as the consumer does not actually own anything tangible; compared to true timeshare, therefore, the value of these products is even more doubtful, especially because effective enjoyment of membership rights is not assured.

These contracts are full of unfair terms that make for a disproportionate bias against the consumer's interests, giving the Holiday Club a free hand to define the service it offers and the terms on which it does so.

In the rare instances in which the consumer does receive a service, it is always low quality. In most cases, however, Holiday Club customers receive no service whatever.

The vendor's legal base is often a tax haven: under the contract any conflict with the consumer is submitted to the laws of that tax haven. Consumers who wish to cancel get menacing telephone calls and letters from the vendor's lawyers, accusing them of fraud and threatening legal action if they stop paying up. In one instance, the children of a buyer who wished to terminate a contract were told over the telephone that their parents would end up in jail.

The clauses of the contract are difficult to understand and consumers tend to be carried away by the hard-sell tone set at the product presentation – the sales rep gives them a fantastically alluring description of the service and makes all kinds of unrealistic verbal promises about what an unmissable opportunity the contract is.

The Holiday Club often stipulates in a strict disclaimer clause that it assumes no liability with regard to the techniques used by their sales reps, who come on and off the market at a moment's notice and change their names and addresses any way they want.

The contracts also include clauses that specifically exclude any possibility of cancellation, cooling-off periods or refunds. In some cases consumers have to pay unfair annual maintenance fees. Fees are increased arbitrarily and disproportionately after the first year, without using a review or update procedure previously made known to the user.

2.4 "Exit Packages"

Another product related to timesharing is the 'exit package'. Under this contract a timeshare buyer also buys separate holiday services not covered by timeshare legislation.

For instance, we have encountered situations in which consumers signed a timeshare contract drafted in their own language and which was to take effect in early 2002, whereby the consumers were granted a cooling-off period. At the time of signing, however, it was proposed to them that they also sign a separate contract under which

they were booking accommodation and travel arrangements for 2001. This contract was drafted in English and concerned the same resort as the timeshare contract. Under this second contract, buyers would pay 10% of the price of the timeshare straight away, at the product presentation itself, on the understanding that this payment corresponded to the first instalment of the timeshare they had also signed up for.

Consumers were unaware that they were in fact signing two separate contracts, and when they cancelled the timeshare contract, they were told that the second contract was binding and so they were not entitled to a refund of the money they had already paid. The price of accommodation was wholly disproportionate to the value of the travel packages.

2.5 Floating Vessels

There is now a flourishing market in timeshare contracts that, instead of traditional holiday homes, concern floating vessels of all kinds. By this means vendors also manage to sidestep timeshare legislation; hence such contracts do not provide a cooling-off period in which the buyer can cancel. Consumers frequently tell us that they bought the product under pressure or on the understanding that they could later cancel the contract, which later turned out to be untrue. Awareness-raising campaigns are thought to be of little use because consumers only seek advice once they have signed a contract.

2.6 Promotional Holidays

Consumers, recruited by a sales rep, come to pick up their 'prize' and find that they are handed a brochure offering several holiday options. General terms of use are printed in very small type and the form has to be filled out straight away. Far from being a gift free of charge, registration requires payment of non-refundable handling fees of €25 to €50 per person. The small print also establishes that consumers are not assured of getting the resort they want on their chosen dates, that they must attend a number of compulsory sightseeing visits or hotel meals and that they should not choose a peak-season stay.

Once they have filled out the form and paid the handling fee, consumers fill out another form requesting details on their income, marital status and holiday preferences. This seems to be used to create a profile of the sort of customer that can later be targeted by direct-marketing techniques. Having gone through all this, consumers then find that they are not provided with the holiday service anyway.

2.7 Resale of timeshares and Holiday Club memberships

Sooner or later timeshare users may want to sell on their week's holiday entitlement. They come up against serious problems. The secondary market for timeshare is non-existent, as opposed to what consumers are told when they buy the product. When users tell a firm that they would like to resell, several operators – generally using the users' language – promptly contact them and promise that they can resell their timeshare week. They even say that they already have a keen buyer for the week's entitlement, at a price similar to what the user originally paid for it. Consumers are tempted to go along with this and end up paying a resale-handling fee. The resale agents are often bold enough even to claim that the law in force in the country where the holiday home is (generally Spain) requires that the handling fee be paid in advance, or charge the consumer for notarization of their property rights. After the consumer has paid, any attempt to contact the company generally fails and no resale contract is brought to a satisfactory conclusion.

It would appear that many resale companies come on and off the market and change names rather quickly. The techniques for recruiting customers remain the same, however.

In another variant of the recruitment technique the firm tells users that, if they buy a second week's entitlement with a higher resale value, they will find it easier to resell both together. That way, the consumer pays for another timeshare week and then the resale never materializes.

In some cases consumers are told, upon buying the product, that the holiday complex itself will repurchase the week if the buyer so wishes. But these are generally verbal statements not reflected in writing, and therefore the holiday complex makes no actual commitment to buying back the week.

In some Holiday Club contracts, consumers are given a certificate that says, in tiny capitals only 1 millimetre-high, that if users wish to resell, they must notify the company 28 days prior to the entitlement 'redemption' date. At the time of signing no verbal warning is made of such restrictions.

The trouble starts when a user decides to resell. It is often impossible to contact the vendor, and on the occasions when contact does occur, the resale company makes a big profit by only allowing consumers to recover a small portion of the price they originally paid.

One way or another, the consumer always loses money. The resale company normally does not commit under contract to achieve an effective resale, but says that it will 'use its best efforts' to get a result. In any event it demands up-front payment for its hypothetical 'handling' work, while it is never proved that it has truly done anything at all towards reselling the week's entitlement, such as placing an advertisement for it, etc. The ECCs seriously doubt that any 'second-hand' market for timeshare weeks actually exists. Rather, we regard this as a way of getting more money out of timeshare buyers wishing to sell on their week, because they are generally unable to exchange it for another week in a more attractive destination or for better dates, and must still pay annual maintenance fees.

2.8 Legal advisors

Lately there has been a proliferation on the Internet of websites through which lawyers offer to represent consumers in the Spanish courts if they wish to sue the company from which they bought their timeshare product. They often place on their website a list of the companies that, they claim, they are already suing. These legal advisors also sometimes cold-call consumers direct to offer their services.

Naturally, ECCs do not recommend hiring these lawyers, who often claim that they already represent a long list of claimants which new claimants can join, thus supposedly lowering the cost of going to court.

Having analyzed the complaints received by the ECCs, it is clear that most timeshare and Holiday Club companies claimed against deliberately evade the applicability of current legislation. Therefore, the ECCs agree that even if informational activities are increased to warn consumers against such contracts, other options should be considered with a view to putting an end to the lack of protection for buyers and to the impunity of vendors, which make large profits from such lack of protection.

3 TYPES OF PROBLEMS

3.1 Before signing the contract

*Sales techniques

Before signing the contract the first problem that consumers face is the selling technique used by sales reps promoting timeshare-type products. These hard-sell techniques are very aggressive, designed as they are to persuade consumers to buy a product that, at the outset, they do not wish to buy and most often know very little about. 'Victim' tourists are targeted by reason of their nationality, age and financial status. Northern Europeans who are couples aged around 50, married and in possession of a credit card tend to be favoured targets.

Some consumers are approached in public places, generally while on holiday, by a sales rep who shares their nationality – by thus creating an entirely artificial relationship of trust the sale is easier to close.

Potential buyers are offered 'scratch-cards'. All scratch-cards turn out to bring forth a prize, such as a 'free holiday', 'free cruise', 'bottle of sparkling wine', or a 'voucher worth €707 towards buying a holiday'.

Sometimes consumers are accosted on the pretext of their being asked to take part in a survey in which a prize is at stake. Surveys are also conducted by cold-calling consumers at their homes and inviting them to pick up their free gift. The true purpose of the call and of the subsequent product presentation is never clearly spelled out to the consumer, who nonetheless attends the event to see what it is all about.

In order to pick up the prize that a consumer has 'won', he or she is asked to attend a meeting to be held in an office and listen to a presentation about 'great holiday offers'. These presentations then become lengthy sales pitches designed to inhibit consumers' freedom of choice about when, where and how to take their holidays. For instance, a husband and wife are prevented from having a moment to themselves to discuss a buying decision.

Once potential customers enter the firm's office, they are offered food and alcoholic drinks while the presentation is going on. Consumers' judgement is impaired under the influence of alcohol, and the vendor thus manages to weaken their will.

To overcome any reticence on the part of prospective buyers, they are told that the Holiday Club is soon to open offices in their home country so that dealings with the company will be easy to carry on.

A great many verbal promises are made during the presentation about the quality and price of the holidays offered alongside the 'free' holidays already 'won' with the scratch-card.

The verbal promises made by the sales rep are never reflected in the contract. Buyers are told that the product is risk-free and can easily be sold on, that it is a wise investment, and so forth. At no point is it pointed out that the value of the product on the second-hand market bears no relation to the price they are about to pay. The target customers are fed a lot of misleading information about the possibilities of cancelling the contract. For instance, they are made to believe that if they do not pay an advance instalment within 10 days, the sale will be cancelled automatically.

The transaction is made to look like a one-off opportunity that should not be passed up – so the contract must be signed immediately, or else it will be offered to other potential customers. Many customers sign the contract just to get away from the meeting room after hours of psychological pressure, thinking they will be able to cancel it later with no trouble.

In many cases, no documentation describing the holidays is provided before signing the contract, hence consumers are unable to choose on the basis of specific details. They only have the verbal explanation from the sales rep and information about the holiday voucher and how to redeem it. In other cases timeshare companies put pressure on consumers with weaker finances to take out consumer loans, even if such buyers cannot really afford the purchase. But they must pay up their instalments anyway.

We constantly hear about timeshare products presented to consumers as an investment that is easily resold or leased out at a profit. Consumers are promised discounts on flights and other travel services. Later, when the promises fail to materialize, buyers find it very hard to prove that they were made. It is easy for vendors to deny having given out such promises; nevertheless it is the case that, over and again, consumer complaints made in different European countries tell virtually identical stories about the false promises made by sales reps.

In some prime holiday destinations a great many companies compete intensely. As a result, consumers are approached on the street by sales reps from several different timeshare and Holiday Club companies.

Sometimes prospective buyers are contacted by telephone or by post and told that they will receive a gift if they attend a presentation about holidays. Consumers who accept often do so with the sole intention of picking up the gift, as they are told that they will get it just for attending, even if they do not buy the product. However, at the presentation itself – which usually lasts several hours – they are subjected to hard-sell tactics and misleading promises, and so some consumers end up signing a contract just to get away from the presentation venue. Others stand firm and do not sign the contract but are persuaded to pay a handling fee in order to get the holidays that they 'won' by attending the event. In the end, no holiday materializes, or the supposedly 'free' holiday turns out to involve travel costs, board and lodging costs, etc.

Another type of offer is couched as an opportunity to re-sell the timeshare week that a user already owns, and the user then ends up buying a second week.

*Data Protection

In cases of resale, timeshare owners are called directly at home, which shows that data-protection rules are easily broken. Otherwise, how could the resale company find out that the consumer they are calling is a timeshare owner? It is obvious that in this industry there is an underlying business of selling the personal details of clients, whereby these details are "transferred" to resale companies. These companies know that they will easily find an unsatisfied timeshare owner eager to get rid of his or her week.

*Resale Inducements

Misleading techniques are also used to induce owners to resell their timeshares, including unexpected telephone calls to timeshare owners, exaggerated statements made by resale companies, assuring owners that they will sell their week. They even say they already have a buyer for the week who is prepared to pay a good price.

The company attempts to convince consumers to pay part of what will be their profits in advance. And to convince them, they send the resale contract in advance by fax with the details provided by the seller and those of the hypothetical buyer, along with his or her signature. Naturally, the fax has no value as documentary evidence in the case of a lawsuit.

But once consumers have paid the resale-management fee, the resale rarely occurs and they are never able to contact the company again.

Most resale companies are located in the towns of the province of Malaga in Southern Spain or in the Canary Islands.

3.2 During the Contract Term

Contracts for products similar to timeshares are highly deficient in terms of the contract's time frame, the cooling-off period, cancellation clauses regarding the object of the parties and contract obligations.

*Circumventing Application of the Directive

All contracts for products similar to timeshares differ in one way or another from the definition contained in the Timeshare Directive and its transposition laws. This is how these contracts avoid having to provide a cooling-off period or containing withdrawal or cancellation clauses. That way, advance amounts do not have to be returned in the event of withdrawal, thus circumventing Article 6 of the Directive, which stipulates that companies should not accept deposits or advance payments on account before the cooling-off period has expired.

The company reserves the right to vary the terms of the contract as it sees fit. This infringes on the contents of Article 3 of the Directive.

*Advance Payments

During the vacation-product presentation, consumers often sign a payment order on account by credit card for part of the total cost of the product. This order is sent to the bank, which transfers the money to the operator. Later, if the consumer decides to withdraw from the contract, it is almost impossible to get this money back by pressuring the company or using alternative consumer-conflict-resolution systems. The companies elude this prohibition against collecting advance payments by arguing that the product being sold is not regulated by the Directive because it is not a timeshare.

Some credit-card companies have returned amounts paid in this way as a service to their client and not because they were obliged to do so.

*Object of the Contract

The contract often does not specify the object of the contracted right and, should such an object exist, the definition is so utterly vague that the consumer cannot know exactly what is being contracted. The documents provided with the contract are insufficient, thus making it impossible to know the names of the companies involved, the location or any other specific description of the accommodation.

*Parties to the Contract

On many occasions, the contract does not contain the details of the company with which the consumer is entering into contract. Basic details are not mentioned that identify the selling company, such as its registered office, Mercantile Register identification number and fiscal identification number. Sometimes the only form of contact is a post-office box.

These transactions may involve many other companies that are not parties to the contract, such as:

- the agent that signs the contract (who never provides proof of his power of representation of the company for which he/she works and in whose name he/she signs the contract)
- the owner of the resort where the holiday will be spent
- the company responsible for maintaining the resort, which charges the annual fees
- the person responsible for the investment fund, if applicable
- the exchange/swap company
- the travel agency that will organize any flights if these services have also been contracted.

*Imbalanced Obligations

It is clear that there is a lack of balance between the obligations attributed, by virtue of the contract, to the consumer and the companies. Actually, no obligations are attributed to the company, whose effective rendering of the service is "subject to availability".

*Contract Clauses

On the few occasions that the company includes an explanation of the right to a cooling-off period or withdrawal, this explanation is usually unclear, which goes against the Directive. In some cases, this information is included among the numerous appendices accompanying the contract, which makes it unlikely the consumer will

read it. This practice highlights the company's lack of interest in allowing the consumer access to the information.

Furthermore, in most cases it is not until the tourists have returned to their homes after their holiday that they can reflect on the contract they have signed and are able to look over the documents received. But by that time the cooling-off period is over and can no longer protect the interests of the consumer, as it was created to do.

*The Annual Maintenance Fee

The contracts rarely contain information on how the annual maintenance fee is updated. For consumers, it is almost impossible to know the rate that determines the variation in the fee beforehand and they are sometimes forced to pay increases as high as 50%.

In cases of Holiday Clubs in which an annual fee is required after the first year of contract, this amount increases alarmingly and disproportionately. Then these companies offer to improve the conditions of the existing contract by providing new agreements with more competitive prices when the consumer has not even been able to enjoy the benefits of the first Holiday Club.

*The Right to Swap

Far from being a right chosen by the consumer, the right to swap is often imposed and included as just another part of the contract and, therefore, another binding condition when the contract is signed. Consumers pay an additional fee for the right to swap. It has often happened that when consumers try to swap their week, many problems arise with how the swap system works.

3.3 After the Contract Term

*Non-availability of Holidays

When consumers get back home, they must face the sad reality that the holidays they have contracted are not available. This may occur because:

- They do not receive the promised catalogue of luxury accommodations and destinations to choose from.
- Once they have received the catalogue and made their choice, the consumers are never allowed to go to the place they want

during the dates they want. Their choice never happens to be available.

- The information in the catalogue is incomplete, either because the “free vacations” or “very competitive” vacations turn out to be more expensive than those arranged on a private basis.

*Contracting Additional Flights

In the case of some Irish consumers who chose to go to another country for their holidays when using their accommodation and travel rights, the flights offered only left from airports in the United Kingdom. This fact, of which they had not been informed earlier, was very inconvenient because the need to contract an additional flight between Ireland and the United Kingdom increased the total price of the holiday.

*Redemption

In some cases, Holiday Clubs have promised consumers that they could get back all the money they had paid after 35 months. Many consumers believe this and it is the only reason they end up signing the contract. Consumers are not aware of the many restrictions redemption certification subject them to and the agents, as can be imagined, do not provide consumers with information about these restrictions before signing the contract.

*Communication Problems

The company is initially in constant contact with the consumer until the total contract price is paid. As of that moment, all the communication problems with the company begin: consumers' letters are ignored and their telephone calls are not returned.

If consumers try to cancel the contract, they start receiving threatening letters to pressure them and convince them to pay the total price. Some consumers even go so far as to give up trying to recover their money as long as they stop receiving these letters and telephone calls, which do not let them live in peace.

Once consumers realize the mistake they made when they signed the contract, they feel ashamed. They do not even dare mention the problem to other members of their family. Though it may be hard to believe, the consumers who become involved in these purchases and feel ashamed come from all cultural, social and economic levels

(university professors, farmers, civil servants, police officers, construction workers, etc.).

*The Difficult Task of Defending Consumers' Interests

After trying to solve their problems with the company on an amicable basis, consumers' only option is to seek legal advice.

In the complaints received by ECCs, companies market tourist accommodations mainly in Spain and Portugal, which makes Spanish or Portuguese legislation applicable. This means that consumers are faced with serious difficulties when defending their rights from their place of origin, where the legal system is often different from the place of the accommodation. The distance also complicates following up on complaints against the company and the cost of filing a lawsuit in a foreign country is very high.

There is also another major obstacle that makes taking legal action against these companies difficult: the fact that they are registered in tax havens such as Gibraltar, the Isle of Man and the Virgin Islands. Some contracts include a clause of submission to the jurisdiction of the place where the company is registered. It should not be necessary to remind readers that tax havens are also known for having strict rules regarding the confidentiality of company owners.

It is not difficult to understand that these companies are expressly created to break the law and deceive a good many European consumers, whose good faith makes them easy marks for these unscrupulous companies.

4 REACTIONS OF ECCs

4.1 ECCs as Intermediaries

The ECCs have contacted Holiday Clubs and other kinds of companies that sell products similar to timeshares to seek direct reparation for the damages caused to the affected parties and to cancel the contracts.

In these cases, consumer defence is usually based on:

- Direct application of the Timeshare Directive
- Legislation on abusive contract clauses
- Undue influence and abuse of power
- Misleading advertising and false statements

The ECCs have contacted other ECCs in the countries where these contracts proliferate (e.g. Portugal and Spain). The ECCs in these countries have met with major difficulties in their mediating efforts in favour of consumers given the companies' absolute lack of interest in reaching an amicable solution.

Local government administrations in the place where clients are recruited and the products are contracted (and where the seller generally has its office or branch office) have been contacted by the ECCs without obtaining much in the way of results.

In some cases of complaints from British consumers who made an advance payment by credit card, the amount paid was recovered. This has occurred when the consumer's credit-card company understands that Section 75 on equal liability of the 1974 British Consumer Credit Act is applicable. This, however, is not the case if the consumer pays by bank transfer or in cash.

4.2 Police Action

In November 2001, a news item appeared in the Spanish media in which the representatives of a group of companies that sold products similar to timeshares and Holiday Clubs had been arrested by the police. They were alleged to have cheated their clients by selling nonexistent vacation products and services. These companies' main clients were tourists in the Canary Islands, especially in the towns of Playa las Américas, Adeje and Arona on the Island of Tenerife. The companies also operated in Malaga on the Costa del Sol. Spanish Police authorities calculate that 50.000 tourists across Europe have been swindled by one of these fraudulent companies.

The investigation, which was begun on the court's own initiative, is being run from Magistrate's Court No. 5 of Spain's National Criminal Court by Judge Baltazar Garzón. The public prosecutor is Enrique Molina. The Ministry of the Interior's Intelligence Service is also carrying out a police investigation and has made the relevant arrests.

When the investigation began, the ECC in Barcelona contacted the police office and offered to collaborate and facilitate information on the companies involved. It also informed the rest of the ECCs and associations of affected parties throughout Europe of the news and created a form so that complaints against the companies being investigated could be sent directly to the police.

Since November 2001, about 30 people have been jailed in Spain and more arrests are expected in the future. The accusations include fraud, extortion, falsification of credit cards and other crimes.

This demonstrates the dangerous nature of some of the companies that work in the field of timeshares and similar products.

4.3 The initiative of the Office of Fair Trading (OFT): Injunction Action

The UK Office of Fair Trading now has the power to take action against merchants and businesspeople in other EU Member States when such merchants or businesspeople breach the consumer-protection legislation and negatively affect the collective interest of British consumers.

The Stop Now Orders Regulations 2001, which is based on Directive 98/27/EC, entered into effect on 1 June 2001 and now authorizes the OFT and other qualified bodies to request an injunction order to make certain companies stop their activity when it is considered illegal, including activities regulated by the Timeshare Directive.

The OFT is currently gathering proof in relation to certain Holiday clubs and requesting personal information from the complaining parties, whose statements could support the initiative.

Although it is not authorized to defend the individual interests of consumers, this initiative attempts to defend the collective interests of consumers and act toward avoiding what are considered recurrent infractions by some companies of the legislation regulating timeshares.

5 SOLUTIONS PROPOSED BY ECCs

The ECCs feel that to avoid the action on the market of certain operators of tourist products in detriment of the interest of consumers, it is absolutely necessary to include adequate control systems.

Raising awareness of the problems of timeshares and similar products does not appear to be sufficient in and of itself because most consumers do not seek advice before attending a presentation and have probably never read any material on the subject. Even if they have read an explicative guide on the subject beforehand that was published by a consumer-protection organization or an administrative organization with authority in consumer matters, the guide probably did not contain all the forms of timeshares currently on the market.

All these measures are insufficient to fight against companies that use such aggressive sales methods and that resort to misleading information and deceit to cheat their potential clients.

The two kinds of measures presented below vary depending on whether the problem is viewed from the perspective of civil law or criminal law. At any rate, any change in the current scenario will not harm any companies operating on the market within the current law.

5.1 Civil-law Solutions

The ECCs consequently feel that in light of the complaints received about contracts, it is necessary to amend the current Directive 94/47/EC of 26 October 1994 in the following terms:

*Legal coverage of all timeshare products

The legislation should be extended to cover all products that essentially consist of tourist-accommodation timeshares.

*Elimination of time limits

The minimum period of 3 years should be eliminated as a requisite for a contract to be subject to application of the Timeshare Directive and shorter time periods should be included. It is clear that companies avoid application of the Directive by creating products of the same type as the timeshare but with shorter time frames. Moreover, the usage period per year should not be limited to 7 days.

*Company registration

Control of these sale and resale companies could be improved if the operators of these products were forced to be registered in a commercial register, like the one for travel agencies, access to which could be controlled by official organizations with authority over tourism in each country.

*Prize for attending a presentation

It should be illegal to collect payments for managing the vacations offered to consumers as a prize for attending a presentation.

*Promotional material

Besides reminding consumers of the right to withdraw from the contract, the promotional material of the operators or marketers of these products should warn consumers that the product is not an investment and that the value of the timeshare could drop if the owner attempts to sell it.

*Extending the cooling-off period

After signing the contract and once they are back home, many consumers begin to wonder what kind of product they have bought.

But if th

ey were pounced on by salespeople when they were just beginning their holidays, by the time they get home, the cooling-off period has ended. Due to the complexity of the contract, the cooling-off period should be extended to 1 month, which would give the consumer time to get home from vacation and have enough time to think about the contract, its contents and the effects on the consumer's budget and family.

*The right to cancellation

The information about the right to cancellation or withdrawal during the cooling-off period should be stated clearly in a visible, highlighted part of the contract so that it can be easily identified by the consumer. This information on this right should not be lost amid the innumerable documents given the consumer with the contract.

It is also necessary to establish a common procedure for the EU for communicating cancellation of the contract. This way, the consumer is released from the difficulty of having to find out how the cancellation procedure works in each foreign country. A good measure would be to include in the documents accompanying the contract an independent document or form providing information on the right to cancellation and including the company's details. If consumers decide to cancel the contract, they can fill out the form. Article 4 of Directive 85/577 of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises stipulates that cancelling the contract is possible and that a document of independent cancellation should be issued along with the contract to provide information on this right and make it possible to identify the cancelled contract and the name of the person and address where this right can be exercised.

*Exceptions to the prohibition against accepting advance payments during the cooling-off period

It appears that the European Commission has proposed making an exception on certain occasions to the prohibition against accepting advance payments during the cooling-off period in those cases in which the consumer contacts the salesperson because it is understood that in this case there is no pressure on the consumer. The ECCs understand that even if consumers initiate contact, they could be subjected to aggressive sales techniques during the subsequent presentation. Consumers could find they have made an advance payment for a product and that after they have thought about it away from the influence of the salesperson, they realize they do not really want it. The ECCs recommend the prohibition against accepting advance payments against the price of the contract be maintained.

*Advance payments

An alternative to the above point could be adopting security measures for advance payments, including obliging the company to deposit the amount paid on account by the consumer for the duration of the cooling-off period.

*Resale

The Directive should also address protecting consumers against resale companies by offering a cooling-off period during which it is not possible to accept advance payments.

These companies should be forced to work on a “no sale, no fee” basis and also be forced not to use cold calling.

Some timeshare operators offer new weeks to owners if they agree to sell the one they have. With the aim of avoiding common fraud when consumers finally possess the timeshare and have to pay maintenance fees for all the weeks, it would be advisable to extend the right of cancellation on the new timeshare until the old one is sold.

5.2 Injunctions

Injunctions could be a complementary or alternative measure to those mentioned above. The recent transposition into the Spanish legal order (Civil Procedure Act 1 of 7 January 2000) of Directive 98/27/EC of 19 May 1998 on injunctions for the protection of consumers’ interests stipulates that the Public Prosecutor and “authorized entities” may be parties in injunction suits before civil courts to defend the collective and individual interests of consumers and users.

Therefore, the entities of other EU Member States constituted for the protection of the collective and individual interests of consumers authorized by being included in the list published to this end in the Official Journal of the European Communities can take part in the legal process.

From this perspective, the approach of the British government (specifically the Office of Fair Trading) should be viewed very favourably for filing an injunction suit against some of the companies located in Spain with the purpose of making them stop negatively affecting the interests of British consumers. This initiative is discussed above in point 4.3.

The approach of the Office of Fair Trading is a good example of the United Kingdom’s commitment to defend the interests of its citizens and those European countries where a number of citizens are affected by timeshare problems could follow suit.

5.3 Criminal-law Solutions

As discussed, much information indicates that the bad way of operating and the great many complaints arising from some companies marketing products similar to timeshares are not a coincidence. Rather, these companies have been set up with the sole aim of defrauding and cheating consumers. The recruiting techniques

and civil-contract relationship are the methods they use to get what they want: incalculable economic profit.

It is therefore considered absolutely necessary for the European Commission to encourage dialogue with all the parties involved:

- The MEPs, to hear their opinion of this report and the current problems caused by products similar to timeshares.
- The governmental and police authorities of countries where there are victims of companies marketing these products. These authorities should support the ECCs that receive these complaints.
- The Spanish and Portuguese governmental and police authorities. In Spain an investigation is under way by the Central Unit of the Exterior Intelligence Service (Ministry of the Interior) against certain companies. It is in the interest of the Spanish police to establish means of coordinating with the police of other European countries.

As a result of this dialogue, a collaboration system could be set up to decide the best way to handle these complaints, bearing in mind all perspectives.

5.4 The Green Paper's contribution to consumer protection in the European Union and the future directive on unfair commercial practices

The Green Book, adopted in October 2001, discusses the need to draw up a framework directive on unfair commercial practices that are detrimental to consumers' collective interests. It also suggests creating a legal instrument to facilitate cooperation between enforcement authorities.

Appendix 1 of the European Commission's Follow-up Communication to the Green Paper of 11 June 2002, COM(2002) 289 final, contains a summary of the issues that should be included in the framework directive on "unfair commercial practices". It will be of great interest to keep a close watch on the development of the work that goes into preparing the directive because, to a great extent, the directive and each Member State's national transposition laws will equip the States with measures to contribute toward solving some of the problems analyzed in point 3 of this report with regard to contracts for acquiring timeshare-like products. However, as explained below, we do not consider this course of action to be an alternative to the measures proposed in point 5.1 of this report on the amendment of the Timeshare Directive. Rather, we see it as a complement to such amendment because it will provide consumers with a more solid

guarantee when defending their rights and contracting these products, which spring up in increasing numbers each year.

The Communication establishes that the framework directive should be based on a general clause, whereby the Member States should guarantee that the businesspeople established in their territory do not adopt unfair commercial practices. The general clause should be based on two core factors: the unfairness of the practice and a "consumer-detriment test". The general clause would have to be substantiated by a series of specific rules ("fairness/unfairness" categories) concerning different stages in the business-to-consumer relationship; moreover, a non-exhaustive list of examples would be drawn up, including the following:

- a prohibition on business from engaging in commercial practices that are misleading or likely to mislead the consumer
- a duty to disclose to the consumer all material information which is likely to affect the consumer's decision
- a prohibition on the use of physical force, harassment, coercion or undue influence by business
- effective information disclosure and complaint handling in the after-sales period

In the process of contracting products similar to timeshares, the companies that sell them very often expose consumers to misleading sales techniques, as described in this report. It would not be too difficult to place the different techniques used by these companies in some of the categories the future directive will consider misleading, as outlined in the Communication. Let's take a look at some of the practices used during the promotion of contracts for timeshare-like products.

- the product-promotion technique itself is not clearly identifiable for consumers.
- certain characteristics describing how the timeshare system works are not true, e.g., when it is identified as a highly profitable or easily recoverable financial-investment product over time.
- the identity of the supplier and/or its address does not appear in the contract. However, when the contract is signed, the company representative demands a downpayment.
- the way the product works is not described in the contract documentation.
- hard-sell techniques are very common among companies offering these products: these companies take advantage of the fact that their target clients are most often married couples on vacation (especially retired people) away from their place of residence. These tourists are recruited in public places and are encouraged to attend a presentation in exchange for a prize that rarely materializes. Contrary

to the promises made, the presentation usually lasts at least three hours and alcoholic beverages are sometimes served to potential clients. The clients are not allowed to discuss their impressions among themselves to decide if they are interested in the product or not, so their freedom of decision is completely limited.

- the contracts do not stipulate the way the company will handle any complaints.

The Communication states that the primary focus of the framework directive would be on unfair practices harmful to the collective interests of consumers, rather than claims of individuals. Under the framework directive, Member States would ensure that court actions under their national laws allow for the rapid adoption of measures, including interim measures, designed to terminate any unfair practice. The framework directive would be included in the list of the directives covered by Article 1 of the Injunctions Directive. The Communication goes on to say that further questions for consultation include whether or not the framework directive should provide for the exercise of autonomous action by national enforcement bodies and/or consumer organizations, and whether the most blatant and serious breaches of specific provisions of the framework directive (e.g., use of force, harassment, etc.) would give rise to liability for damages proven by individual consumers.

The approval of the framework directive on unfair practices and the guarantees it would provide consumers, together with the fact that the authorities could take an injunction out on a company that uses these practices, represent measures that are perfectly suited to handling problems involved in acquiring a timeshare. During such processes, the good faith of the company has been questioned on numerous occasions and has even led to the police investigation currently being carried out by the Spanish police, given the indications of fraud, as explained in point 4.2.

However, these measures should not be implemented without bearing in mind the need to amend the Timeshare Directive by extending its definition of timeshare products to include similar products and thereby offer a new panorama of guarantees and legal protection to future buyers of these products, which continue to proliferate on the Spanish market. Amendment of the Timeshare Directive would provide a description of the product and the way it works irrespective of the companies selling it because, at present, virtually no description of the product is provided in the contract. These contracts are generally standard forms with innumerable abusive clauses that only look out for the interests of the company without guaranteeing specific services to the consumer in exchange.

The many consumers who consider themselves victims of companies selling timeshare-like products and the health of the Single Market would justify a generous legal and political measure such as the amendment of the Timeshare Directive. Amendment should involve the extension of the Directive's scope of application to include products currently not covered and should be done as a complement to the approval of the directive on unfair sales techniques. This would result in greatly improved consumer protection, which is currently necessary due to the aggressiveness of the fraudulent companies that continue to operate freely on the market.

Moreover, the Communication stipulates that the consumer-detriment test should be measured against the standard of the consumer of average intelligence, reasonably well informed and reasonably circumspect. Where a company consciously directs its activities to a specific vulnerable group of consumers, that criteria could be adjusted accordingly.

One view is that the type of consumer targeted by the companies marketing timeshare-like products is, to a certain extent, vulnerable. First of all, it should be remembered that it is never the client who approaches the company, but the company that recruits clients in public places while they are on vacation. And these clients are never chosen at random. They are usually married couples of a certain nationality, which is why, during sales campaigns, companies unleash sales teams in their territories of influence made up of people of the same nationality as their target clients. This and other tactics are used to create a false sense of trust and camaraderie between the clients and the agent selling the product to facilitate closure of the sale.

In the complaints received by the different European Consumer Centres regarding contracts for timeshare-like products, consumers often included an explanation of the circumstances under which they signed the contract: the environment created by the company and the aggressive sales techniques used, which "incomprehensibly" influenced them, as some said, to sign the contract and which they only became aware of once they had signed and were released from the agents' pressure. The similarity of descriptions of consumers of different nationalities and the fact that they were subjected to the same widespread hard-sell techniques despite being recruited by different companies is very revealing.

It is therefore clear that administrative cooperation between consumer-protection authorities in different Member States is very important. This cooperation should facilitate:

1) The detection of misleading practices by companies affecting a high number of EU citizens and deciding whether the collective interest of consumers in one Member State may be harmed by the action of companies located in another Member State, as in the case of the contracts in question. This could make it possible to plan independent actions against these commercial practices or could lead to the rapid adoption of interim measures as provided for by national legislation.

It would be necessary for the national authorities to have some kind of control (e.g., through annual reports from the different municipal and regional organizations with authority in terms of consumer affairs and receiving complaints) over the complaints presented about companies using unfair commercial practices in their territory. For complaints presented by citizens of other Member States, which are often sent to the European Consumer Centres and Alternative Dispute Resolution (ADR) Organizations based on the location of the company's registered office, an annual report should be drawn up and submitted to the national authority on consumer affairs so the organization is fully aware of the market situation.

2) Organizing injunction actions. For this action to be successful, many consumers of different nationalities would have to have complained about a single company in the country where that company has its registered office. Adequate coordination among the administrative authorities of the Member States would play a key role.

It appears that the European Commission plans to regulate administrative cooperation through a different directive from the one on unfair business practices, but, in the context of the Single Market, only effective administrative cooperation will stop companies set up in one Member State from acting unfairly, dishonestly, fraudulently and with complete impunity beyond their borders. And, as the Green Paper says, "the capacity of the public authorities to (...) persuade companies to change their behaviour without having to resort to long legal procedures is an essential part of the trust between companies and consumers".

6 COMMENTS ON THE OTE'S CODE OF ETHICS

6.1 General remarks

The ECCs welcome the opportunity to make comments on the OTE Codes of Ethics.

Code of ethics and other self-regulating measures should contribute to the protection of consumers and to the confidence consumers should have in the functioning of the internal market.

However, codes of ethics and other self-regulating measures are only as good as their enforcement.

Therefore, the trade association must be representative of the actors in the sector and we doubt, based on the large amount of complaints on timeshare likely products from non-OTE members, that OTE can represent the market players and can have the ability to enforce the rules.

Our experience has shown that most problematic firms are not, and have not any intention of becoming, members of the OTE.

Codes of conduct, no matter how comprehensive, however, should not be considered as a substitute for extending the scope of legislation in this area. Only the legal process, the amendment of the EU Directive 94/47/EC and European governments' Injunction Actions can stop dubious practices and further exploitation of consumers in this area. It is vital that the timeshare directive be amended in such way that it will extend to "the new holiday products", will not get easily outdated with the advent of new products and will provide authorities with the means of stopping dubious practices from the start.

Furthermore, the promotion of the OTE codes (even if they are adjusted to comply with our remarks) by the ECCs would dissimulate the reality of the considerable problems consumers encounter. Codes of conduct are of interest for the consumers if they complete and improve existing legislation, but they cannot be a solution to the current problems experienced by consumers with Holiday Clubs and other new products. The majority of companies that are defrauding consumers are not members of OTE and have no interest whatsoever in being members of any organisation as their aim is not to sell Timeshare or Holiday Clubs membership but to defraud consumers.

6.2 Preliminary remarks on the Codes

*Relations of the respective codes

It is somewhat unclear what the relations of the Code of Ethics and the additional codes on points clubs, resale services and new holiday products are, even though the latter are supposed to be supplements of it. The general code refers to "timeshare interests" and it is not sufficiently clear if the other codes are complementary to the general code, or if the different codes are to govern each of the respective products/services separately and mutually exclusively. Our reading of the codes led to the latter interpretation.

There are so many similar provisions in these respective codes, we would suggest OTE's standard of Ethics should be the same regardless of the product sold (for example the same cooling-off period for all contracts). The requirements called for by the particular nature of a specific product could be listed in separate chapters of the same code. It is important that the consumers are informed of what they can expect from the codes and from OTE as a whole.

*Enforceability and transparency

The preambles of the respective Codes state that Members agree as a necessary and **enforceable** condition of membership in the OTE to comply with the code etc. This enforceability needs to be fleshed out in order to provide credibility. The Codes of Conduct should be accompanied by a **complaints procedure** for consumers and consumer bodies, which would indicate how complaints are examined and dealt with and how breaches are established. Transparent rules on disciplinary proceedings and sanctions resulting from breaches are also needed as a complementary to the code.

In section 8 of the Code of Ethics for Point Clubs a rule on interpretation and disputes is included. According to this rule, questions concerning the applicability and the interpretation of any part of the Code shall be referred to the **Ethics Council** and the decisions of the Council shall be final and binding.

Such a clause should also be contained in the General Code of Ethics as well as in the Code of Ethics on Resale Practices and Standards and the Code of Ethics on New Holiday Products.

More details about the Ethics Council is needed: who are the members, who chooses the members, are consumer organisations represented, how can the consumer introduce a dispute to this

Council, ...? This and other specifications should be mentioned clearly in the purchase contracts.

Furthermore, OTE should introduce a clause in the Codes according to which all OTE members are obliged to agree to **alternative dispute resolution** in existing schemes in the country in which the company is established or operating and to undertake to follow the decisions of the alternative dispute resolution bodies.

A further step should be to consider establishing an alternative dispute resolution body which meets the requirements of Commission Regulation 98/257/EC on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes. Such a body would consist of representatives of OTE as well as consumer representatives and could solve consumer disputes in an impartial and effective manner. The decisions of this body should be binding on all OTE members.

Questions hereby are:

- What are the procedures and structures for complaints handling?
- Which sanctions OTE will induce to members who infringe the codes?
- Which compensation can expect the duped consumer?
- What is the responsibility of OTE if a member infringes the codes?
- What happens to the guaranties for the consumers if OTE expels a member or if a member wishes to give up his membership?
- Is it considerable to establish a guarantee fund that would substitute the breaching member and would repair the damage of duped the consumer?

*Information to the consumer about the codes

It is not clear how the consumers are informed about the contents of the code. On the web pages of OTE, it is mentioned that the codes of ethics are only available for members.

How can a consumer know if a company is member of OTE and how can he know if that company has cancelled/not renewed its membership or is expelled by OTE?

Members should include the OTE logo in their contracts and inform the consumers about the Codes. Ideally, a modal contract including the obligations and rights provided by the Code to both parties should be drafted to be used by the OTE members.

*Charges

In practice, the consumer is not in touch with the management company and often receives a copy of the contract after the main contract is concluded. The Code should provide an obligation of information for the promoter/marketing company regarding the determination and increase of annual costs. The consumer should be enabled to give up the system in suitable conditions if the increase is too high.

6.3 Remarks per article

6.3.1 Code of Ethics

*Preamble to Code of Ethics

“The Code **may be amended** from time to time” When such is the case, is it always for a better protection for the consumers? What is the influence on existing contracts? How will the consumers be informed if the Code changes?

*1. Applicability

The Code doesn't mention clearly in which way the **different players** in the timeshare contract are responsible. When buying a timeshare, the consumer is involved with a large range of companies (promoter, marketing firm, resort management, finance company, ...). What is their responsibility? What if the promoter is an OTE member, but the marketing firm is not? The OTE members should be **responsible** for the compliance with the Code, even if the companies involved with the selling of their product have no OTE membership. (Extension of article 2.6)

-Section 1.2

Has a **non-exhaustive list** of the matters the Code generally covers. This is too vague as it states that “generally covers...including but not limited to ...”. There should be an exhaustive list as otherwise the companies can argue a particular matter is not included in the Code and this would defeat the purpose of the existence of the Code itself. This causes uncertainty to consumers and should be remedied.

It is to be welcomed that the Code is extended to **consumer financing**. We would suggest that a concept of **responsible**

lending, which is going to be included in the new consumer credit directive, be adopted in these Codes also. We have on several occasions come across the situation where sales agents, who receive their commissions once a contract is signed, push consumer credits on weak consumers, who already find themselves in financial difficulties or whose real ability of discharging their debts is seriously to be doubted.

It is further to be welcomed that the Code extends to the **operation and resort and programme management** of timeshare interests. It needs to be fleshed out what this means in practice, however. Due to the problems that have manifest themselves in the marketing of timeshares and related products, the legislation and other codes have mainly focused on the pre-sale situation. Yet consumers face also many problems after sale. What kind of standards have consumers a right to expect from maintenance firms and from service at the resorts in general? Maintenance fees are often billed in advance and collection procedures are otherwise unsatisfactory; it is hard to find out to what the annual rises are due to; even though sales agents may have solicited the consumers in their own language at the time of making the contract and the contract may be in their language, the service consumers receive after sale may be offered in a language the consumer does not speak at all and often the willingness to help a consumer who has a problem may be lacking if the consumer has already entered into the contract and the resort has no longer anything to get from him. These are just a few problems that keep recurring.

Some kind of standards and complaints procedures for substandard service would therefore be welcome. At the moment there appear to be none, for even though timeshares are of course not exempt of provisions of consumer laws and other civil law provisions, this side does not work in practice and often disillusioned timeshare owners or club members sell their interests at a loss or even give them up.

-Section 1.4

This section is **nonsensical** as OTE alleges that its members comply with existing legislation so we wonder the reason why OTE feels the need to include this section.

*2. Marketing and sales

-Section 2.1

Direct mail and telemarketing should also make clear to consumers how their contact details have been obtained and the appropriateness of this practice should be ensured, particularly in the marketing of resale services. There has been plenty of abuse of **data protection**

provisions in this area and we have very negative experience of cold-calling.

-Section 2.2

If **promotional holidays** are used to entice consumers to presentations, their limitations and costs should be mentioned at the outset. We have e.g. received numerous enquiries from consumers, who have "won" such holidays in lotteries and it turns out that they have to pay non-refundable processing fees for holidays that were supposedly free, in addition to attending presentations.

-Section 2.3

Establishes a dubious protection for consumers in so far as it says that consumers should have "the protection of advance payments during **cooling-off periods**".

The Timeshare Directive specifically prohibits this practice so it is quite disappointing but hardly surprising that OTE flaunts the terms of the Directive in this manner.

OTE being "committed to the highest standards of practice and ethics" should give the benefit of at least 14 days cooling-off. Better is 28 days (14 days holiday and 14 days reflection time at home for a "life time vacation" is not too much).

-Section 2.4

Establishes requirements to provide "reasonable and adequate written **information**...that the consumer can reasonably be expected to understand." The word reasonable is not precise enough. All information required by the consumer should be given without the caveat of what the company considers to be reasonable as it may well not be reasonable for the consumer. The **minimum requirements** as information to be provided should be the one established in the Directive and should be clearly specified in the Code of Practice. The form of language should be factual and not "commercially enhanced".

-Section 2.5

The purchase contract should not only include obligations for both parties to the contract but also rights. In general terms contracts include **hardly any rights for consumers**. The use of the word reasonable is unacceptable as what is reasonable for one party might not be for the other.

As to the respective obligations of the purchaser and supplier, it should be added that these may not be significantly unbalanced. This should follow from the unfair contract terms legislation, but is not always observed in practice.

A new section to the marketing chapter should be added, prohibiting the marketing of timeshares as an **investment in financial terms**,

as where consumers are led to believe that timeshares can be sold at a profit like houses.

A reference to the Directive's requirement to provide a contract in **the language** of the purchaser should be included in this clause.

A reference to the Directive's requirement to provide a **cancellation clause** in the contract should be included in this section.

-Section 2.6

Establishes the vicarious **responsibility** of the companies for the actions of their employees. However the experience of the ECC Dublin has been that when problems arise the company member of OTE says that the sales representative never made the promises that consumers argue the sales representative made. Hence the companies are not prepared to accept responsibilities for the actions their employees.

*3. Exchange programmes

This section should include a reference to the exchange of weeks "like for like" meaning that a week in the Canary Islands should not be equal to a week in Florida in the summer for instance.

There should be a reference to the **quality of the accommodation** offered in exchange of the one already available to the consumer.

The information provided to the consumer on the exchange programme should be **written**.

*4. Resale activities

-Section 4.2

Forbids the soliciting of a listing fee only when the reseller falsely promise or guarantee the sale. As it is almost impossible to resell a timeshare interest under today's market conditions, any payment of fees in advance should be prohibited.

Realsa is a resale company, member of OTE, which has been reported many times before the ECC of Barcelona. They told OTE what the situation was and no answer was given.

OTE members could give an excellent service if they offered resale contracts on the basis of "no sale, no fee", as real state agents do.

-Section 4.4

States that the consumer should be given "reasonable" and adequate written information on the "material" aspects of the proposed purchase. A non-exhaustive list of the aspects is included and as per section 1.2 this is unacceptable.

The mention to the conveyance is confusing and should be easy for consumers to understand the implications of the transaction.

*5. Clubs and points-based programmes

-Section 5.1

Breaches the requirements of the Directive by not describing the property subject matter of the timeshare contract.

-Section 5.3

Is very unclear.

-Section 5.4

Is very unclear.

There should be a clear mention to the management of resorts after the sale of the timeshare as companies are often accused by consumers of running the resorts in an undemocratic manner. Companies usually retain control over the resorts when the owners should have that control over their own properties.

-Section 5.6

Is too vague: "from time to time" should be specified.

*6. Cash back

-Section 6.1

It would be better to prohibit all kinds of "investments". A timesharing contract shouldn't be sold as an investment.

6.3.2 Code of Ethics on new holiday products

The desirability of maintaining a separate code for these products has already been questioned briefly above and is rendered even more questionable by the contents of this code. The Code of Ethics states generally that new holiday products must be created, developed and operated in a manner which cannot reasonably give rise to a legitimate criticism as being an attempt to evade any requirements on any and all the relevant legal jurisdictions. This requirement is repeated in 3.5. relating to holiday packs. With respect, this just seems to beg the question. When holiday packs are for a duration of less than three years, they seem to fall conveniently between timeshare and package travel legislation, but what is their novelty

apart from the fact that the applicability of timeshare legislation is not certain? The same applies to intervals shorter than 7 days.

The situation is underlined by the fact that the Code of Ethics is insufficient and not in line with the concerns that led to timeshare legislation in the first place, as its provisions are less stringent with regard to marketing and sales than that of the principal code.

The Code should be clear in extending the same consumer rights to these new products that the law requires for timeshares, i.e. not only a full cooling-off period, but full disclosure in the contract in a language the consumer can understand, and a prohibition of advance payments. The whole chapter 2 on marketing and sales section in the Code should apply, and the comments stated above on chapter 2 apply here also. If this is not achieved, holiday pack firms do not deserve to be members of the OTE, because this would only serve to mislead consumers as to the nature of these products. It should also be made clear that floating vessels and timeshares with a week every second year fall within these codes, as at present this does not appear certain.

*Applicability

The mention in section B of the compliance with the legislation is non-sensical as there is no legislation covering Holiday Clubs.

*OTE requirements on new holiday products generally

This section is too vague and does not mean anything.

*OTE requirements on "Holiday Packs"

-Section 3.2

If the price of these products should be economically balanced in relation to long-term inventory, arguably it should also be in balance to price of corresponding package travel. Often consumers could make several package travels with the cost of a new holiday product that does not even include flights, without any of the security provided for package travellers. With regard to cancellation of reservation in contracts, where the consumer's holiday is dependent on reservation, he should enjoy some kind of cancellation rights, if he has to cancel e.g. due to illness or the like.

In general, timeshare interests, holiday clubs and packs often involve a considerable investment for the consumer in future holidays. In

theory the interests may be resold, yet the consumer may find himself the owner of a virtually unsaleable product. The timeshare industry however, can on an occasion when the consumer stops paying his maintenance fees confiscate the timeshare and resell it again, or in case the consumer cancels his reservation of accommodation under a holiday pack, merely reserve the week for someone else. The consumer normally gets no compensation for this. We know of many instances where consumers have never, or perhaps once or twice, been able to use their interests, yet they have lost all the investment when they no longer will pay the maintenance fees. The unreasonableness of this situation should be remedied.

-Section 3.5

This section makes absolutely no sense since the mere existence of Holiday Clubs is due to the desire to circumvent the terms of the Timeshare Directive.

-Section 3.7

The use of "reasonably" prominent manner for the inclusion of the cooling-off period is again vague.

The mention to holiday product for more than three years, including a renewal extension which involves 7 days or more or a "substantial advance payment" being subject to the General Code of Ethics is a farce as the advance payment would be a breach of the terms of the Timeshare Directive.

Although the Code stipulates that the contract should inform consumers of the existence of a cooling-off period, and OTE member companies provide such a period, this information may be included in such a way that consumers do not notice it and are thus unaware of their rights.

This happens because timeshare companies usually attach a lot of information to the contract in the form of appendices. One of these appendices is a reduced-size photocopy of Spanish Law 42 of 15 December 1998 on timeshares. Faced with such a barrage of difficult-to-read information, consumers seldom reach the article containing the right to terminate the contract. It should be noted, however, that, even so, companies do meet the provisions of Article 9.6 of the Spanish law which stipulates that Articles 10, 11 and 12 be included in the contract.

One possible demonstration of OTE companies' good faith in providing information would be to include as an additional clause in the first page of the contract (instead of an appendix) the articles containing the right to terminate the contract and prohibiting down payments.

*OTE requirements on exit packages

What exactly is an “exit package”? There is no description or definition in the Code. Why is a cooling-off period not provided?

The so-called “Exit packages” should not be considered a legitimate product to be commercialised by an organisation that claims to be representing only reputable companies.

If consumers have not signed a timeshare contract following a presentation why they need an Exit package for?

We have had negative experiences of exit packages, some with OTE members. Once again our view is that s.4.4. just begs the question, as exit packages are often used precisely to circumvent existing legislation on deposits and cooling-off periods, or at their best, offer consumer over-priced accommodation in comparison with hotels and package travel with little consumer protection involved. These products are not sold independently on open markets and cannot be booked from travel agents. At the moment they do not fall under package travel legislation, and even though the same concerns as in doorstep selling apply, the sellers are not willing to give cooling-off periods.

We have come across situations, where consumers have signed a timeshare contract in Finnish beginning in year 2002. For this they have obtained full disclosure and a cooling-off period. Yet at the same time they have been enticed to sign a travel and reservation contract for 2001 in English for a week in the same resort as their eventual timeshare is situated. For this they have paid a sum corresponding to 10 % of the price of the timeshare at the presentation, and understood that this would be their first instalment. They have not been aware that they have making legally two separate contracts and when they have cancelled the timeshare contract, they have been told that the travel contract is binding. The price of this accommodation has been expensive when compared with package travel prices (1260 € for a week's accommodation).

We therefore see no reason why exit packages should be offered to consumers at all. If they are, once again, the same rules included in Chapter 2 of the main Code should apply and the applicability of doorstep selling and package travel rules as to cancellations should be considered.

6.3.3 Code of Ethics for points clubs

This specific Code for points club doesn't mention a cooling-off period. This is contrary to the Code of Ethics, point 5 (points-based programmes). Why?

Transparency on how maintenance and service fees are calculated, billed and reviewed is particularly important where the consumer is not tied to a particular resort.

Any protection or variation of the accommodation should be prohibited and this should be an intrinsic part of the contract.

The "trust" is mentioned as a protection mechanism (point 3.1). What is exactly understood by "trust"? How can a trust guarantee that the accommodation has been obtained and secured for the future? Does the trust take over the legal responsibility?

6.3.4 Code of Ethics on resale practices and standards

The resale of Timeshare has proven one of the main problems consumers are confronted with. The suggested Code of Ethics falls short from guaranteeing a fair and transparent transaction for the consumer.

-Section 1.3

Although the Code stipulates that resale companies may not ask for down payments on the basis of there being a ready buyer, the ECC suspects that it will be difficult for consumers to prove they were persuaded to sell in this way.

Realsa is a resale company, member of OTE, which has been reported many times before the Spanish ECC. We told OTE what the situation was and no answer was given.

OTE members could give an excellent service if they offered resale contracts on the basis of "no sale, no fee", as real state agents do.

***Agency contract**

-Section 2

Mentions a requirement by the company to provide full details of the work undertaken without giving an exhaustive list the transactions. Once again an exhaustive list is required to make sure consumers are truly protected against bogus resale companies.

-Section 2.3

Regulates the advance payments of fees to the Resale company by the consumer. As in the sale of Timeshare the advance payment of any fee should be prohibited in all cases. Payment should only take place when the sale has actually occurred. Currently many companies take the consumers' fees and year after year fail to sell the Timeshare for the consumer. This is yet again a way to defraud the consumer.

In OTE-news of September 27, 2002, Vol. 2, Issue 21, OTE informs about a rule change on resale listing fees. According to this news bulletin resale companies are no longer allowed to demand such upfront listing fees. This should be made clear in the Code of Ethics on Resale Practices and Standards.

-Section 2.4

Makes no sense whatsoever as the company should under no circumstances use, rent or in any other manner exploit the timeshare interest in advance of completion of the resale transaction as the timeshare is the property of the consumer and not the company's.

*Sales contract

The contract should be governed in full by the Timeshare Directive to give adequate protection to the possible purchaser.

There should be a clear mention of the obligations of the company as in general terms they have minimal obligations and all the risks are for the consumer.

7 CONCLUSIONS

There is much data that lead us to conclude that the poor way of operating and numerous complaints arising from companies marketing timeshare-like products is not a coincidence. Rather, their sales techniques and the standard-form contracts they offer are carefully thought out with the sole aim of misleading the consumers who trust in the good faith of companies and their sales agents. The attraction techniques and civil-contractual relationship are merely the means through which they achieve their sole objective: to make incalculable economic profit in exchange for providing no service at all.

It is therefore considered essential for the European Commission to continue encouraging dialogue with all the national and European authorities involved and not spare any legal or political measures that could lead to the competent authorities and consumer organizations taking decisive action against companies acting fraudulently. Some of these measures are being prepared. They are mentioned in this report with the sole purpose of evaluating their important contribution toward solving market problems by comparing them to actual practice, which will be regulated once these measures are definitively approved.

The reflections contained in this joint report by the European Consumer Centres come to one clear conclusion: to provide an adequate response to the problems described and to ensure consumers' trust in the Single Market, it is necessary to apply a combination of the measures proposed in section 5 hereof.

The preparatory work done on the new framework directive on unfair commercial practices is very promising and, as we have seen, very appropriate for dealing with the proliferation of misleading contracts like those described in this report, which are based precisely on absolutely unfair commercial practices.

The approval of the Injunctions Directive is another very valuable complementary measure that will provide specific fast-acting instruments to allow the authorities to adequately defend consumers' interests. This measure will allow the Public Prosecutor and "authorized entities" (including those of other Member States besides the ones in the State where the company is located) to form part of the injunction action in the civil courts to defend the collective and individual interests of consumers and users.

However, we would insist on the need to amend the Timeshare Directive so that it can be applied to contracts for timeshare-like

products. This is a measure the European Consumer Centres feel absolutely must be adopted, as a complement to the other ones mentioned above and to make a solid contribution toward increasing legal protection and the guarantees for consumers with regard to these misleading contracts, which continue to spring up.

This amendment should include a number of measures, namely: the elimination of the minimum time limit of three years as a requirement for the contract to be considered subject to application of the Timeshare Directive; the existence of a company register that controls the market operators whose registered address is in a specific Member State; the obligation to provide clear information in writing on the consumer's right to cancel the contract, which would be exercised by means of a common procedure set forth in the Directive and not left to the decision of the transposition legislation of each State; the extension of the cooling-off period to one month from signing the contract; and the regulation of timeshare-resale contracts.

All these measures form part of the response proposed by the ECCs to stop the impunity of the companies acting fraudulently on the Single Market which affect a considerable number of consumers by taking advantage of the lack of regulations on certain products and insufficient administrative cooperation, which, it is hoped, the new directive will put an end to.

Another basic aspect is that the Member States should be capable of detecting irregular situations that arise on the Single Market. We would therefore conclude by saying that suitable administrative cooperation between the consumer-affairs authorities of the different Member States is of utmost importance.

The fact that there are many companies carrying out cross-border marketing of these products and that many consumers feel they have been victims of economic fraud give many citizens the feeling they are unprotected in the new panorama offered by the Single Market, because it does not have all the administrative or civil control measures it should. It is therefore necessary to take advantage of the legislative scenario of the new directives being prepared and not overlook any generous legal measures that could contribute toward providing European consumers with legal protection.

APPENDICES

Press releases

- Appendix 1 Press release published by the Office of Fair Trading (OFT), the British Government organisation, in June 2000
- Appendix 2 Press release published by the Association des Propriétaires Adhérents Français de Vacances en Temps Partagé (APAF-VTP), in November 2001
- Appendix 3 Press release published by the European Consumer Centre of Sweden, in February 2002
- Appendix 4 Press release published by the European Consumer Centre of Ireland, in May 2002

Newspaper articles (in different languages: in Spanish, English and French)

- Appendix 5 ABC (Spain), "5000 victims of timeshare companies in Malaga", 26.05.00
- Appendix 6 El País (Spain), "The Court in Valladolid investigates a fraud of timeshare", 17.08.00
- Appendix 7 TS Today (UK), "The pitfalls and perils of timeshare and points system holidays", July 2001
- Appendix 8 Spanish Ministry of the Interior' web, "Police find out a criminal organization which sold nonexistent timeshare to European citizens", 20.11.01
- Appendix 9 La Vanguardia (Spain), "Dissolved a criminal group bound to arms traffic in Canary Islands", 21.11.01.
- Appendix 10 La Opinión de Zamora (Spain), "First conflict of globalization. A band accused of financing islamic terrorists has been captured", 21.11.01.
- Appendix 11 Yahoo! Noticias (Spain), "18 people captured, two of them policemen", 20.11.01.
- Appendix 12 La Verdad (Spain), "Judge Garzon investigates a money-laundering network...", 21.11.01
- Appendix 13 ABC (Spain), "Derbah ran a criminal group who swindled 100 million euros to 50.000 people", 11.04.02.
- Appendix 14 La Dernière Heure (Belgium), "Timesharing: the Canary Islands cheating", 11.04.02
- Appendix 15 Liverpool Post (UK), "Dad and daughter arrested in Spain", 12.04.02

Appendix 16 El País (Spain), "Broke up in Canary Islands a network which defrauded 100 millions of euros to 50 000 people", 11.05.02.

Appendix 17 The Guardian (UK), "Property abroad - Help call time on timeshare fraudsters", 31.08.02.

Consumers' letters (explaining their personal case)

Some consumers wrote to their MEP asking for some help. Members of Parliament who were aware of the role played by the European Consumers Centres gave the address of one of them.

Appendix 18 Mr. & Mrs. Morran, from Mauchline (Scotland), about Travel Group Lifestyle International S.L. and timeshare selling methods, November 1999

Appendix 19 Mr. & Mrs. Kniveton, from Derby (England), about LeisureLink S.L. and misrepresentation, July 2001

Appendix 20 Mr. & Mrs. Purcell, from Dublin (Ireland), about timeshare scratch cards, in 2002

Appendix 21 Mr. & Mrs. Davidson from Berwick (England), about Club Class Vacation and Incentive Leisure S.L., November 2002

Models of contracts

Appendix 22 Purchase agreement between consumers and Trend Properties, S.L., June 2001.

- product sold: 75 points of a "Holiday Club"
- the contract does not explain how the points system works
- the contract does not contain:
 - .the name of the representative or salesperson who signs on behalf of the seller
 - .the company address
 - .the resort where the consumers could use their occupation rights
- Documents will be provided after paying the full amount (clause 9)
- Misleading words "contrato oficial".

Appendix 23 Purchase agreement between French consumers and Mediterranean Consulting Holiday, August 1999.

- product sold: Being member of a "Holiday club" for 35 months
- price of purchase (55.000 FF) paid in the moment of signature by credit card
- the contract does not contain:
 - any cooling-off period despite the misleading reference to timeshare law written in the first page of the contract
 - the name of the representative who signs on behalf of the seller

- Appendix 24 Purchase agreement between Swedish consumers and Dream Works Vacation Club Gold, November 2000.
-product sold: Being member of a "Holiday club", for 50 years.
-a deposit of 50.000 SEK paid in the moment of signature by credit card
-the contract does not include:
 -a description of the product
 -the name of the representative who signs on behalf of the seller
- Appendix 25 Purchase agreement between British consumers and Dream Works Vacation Club Gold, April 2001.
-product sold: Being member of a "Holiday club", for 50 years.
-a deposit of 4.000.-pounds paid in the moment of signature by credit card
-the contract does not include:
 -a description of the product
 -the name of the representative who signs on behalf of the seller
- Appendix 26 Purchase agreement between consumers from Luxembourg and Millenium Holiday Time, S.L.
-product sold: Being member of a "Holiday club", for 35 months
-a deposit of 60.000 FB paid in the moment of signature by credit card
-the contract does not include:
 -a description of the product
 -the name of the representative who signs on behalf of the seller
 -the company address
 -the resort where the consumers could use their occupation rights
- Appendix 27 Resale agreement between British consumers, the vendor, and Property Transfer, intermediary.
-a preliminary fee of 185 000 Spanish Pesetas has to be paid by the consumers whatever the completion of the resale contract.
- Appendix 28 Purchase agreement between consumers from Luxembourg and K.B. Properties, registered in Delaware (USA).
-product sold: Being member of a "Holiday Club", for 35 months
-a deposit of 525 € paid in the moment of signature by credit card and 4691 € one month later.
-the contract does not include:
 -a description of the product
 -the name of the representative who signs on behalf of the seller
 -the company address
 -the resort where the consumers could use their occupation rights

Appendix 29 Purchase agreement between Irish consumers and Tenlanz Vacations S.L.

- product sold: Being member of a "Holiday club" for 35 months
- a deposit of £ 2500 paid in the moment of signature by credit card
- the contract does not contain:
 - any cooling-off period
 - the name of the representative who signs on behalf of the seller
 - the resort where the consumers could use their occupation rights

Appendix 30 Purchase agreement between Welsh consumers and Vacations Worldsol Benidorm S.L.

- product sold: Being member of a "Holiday club" for 35 months
- a deposit of £ 1000 paid in the moment of signature by credit card
- the contract does not contain:
 - any cooling-off period
 - the name of the representative who signs on behalf of the seller

Appendix 31 Purchase agreement between British consumers and Global Connections Limited, registered in the Seychelles.

- product sold: Being member of a "Holiday club" for 35 months
- a deposit of £ 500 paid in the moment of signature by credit card
- the contract does not contain:
 - any cooling-off period
 - the name of the representative who signs on behalf of the seller
 - the resort where the consumers could use their occupation rights.

Appendix 32 Purchase agreement between British consumers and Travel Group Lifestyle.

- product sold: Being member of a "Holiday club" for 5 years
- a amount of £ 2900 is paid in the moment of signature and at the end of the term (5 years), this money would be given back ("cash back").
- the contract does not contain:
 - any cooling-off period
 - the name of the representative who signs on behalf of the seller
 - the resort where the consumers could use their occupation rights.

Other report

Appendix 33 Report concerning timeshare, holiday clubs, resale and cash back, by Barfod MNA, Law Firm based in Spain and Norway, 15 November 2002.