

Timeshares, Holiday Clubs etc.

– ECC Sweden's Work in Remediating Consumer Problems



Konsument
verket • KO

Timeshares, Holiday Clubs etc.

- ECC Sweden's Work in Remediating Consumer Problems

© Konsument Europa, ECC Sweden 2007

Foreword

When ECC Sweden opened up in 2001 it was right from the start noticed that timeshare and holiday clubs represented a market presenting problems for many consumers. At its height the proportion of cases related to timeshare, holiday clubs and similar products amounted to about 30 % of the total caseload at the Swedish ECC. Nowadays the proportion is about 10 % with some 300 to 400 cases a year.

ECC Sweden has through its direct counselling been able to help a great number of individual consumers. One important part of the work has been about preventive efforts, i.e. in various ways working to increase awareness among the public about the current market. This has been done via press releases and other contacts with the media as well as through informational materials. ECC Sweden has also undertaken measures that more generally aim to strengthen the consumer's position on this market. Examples of this are reports describing the consumer problems that have been sent to policy makers such as the European Parliament and the European Commission. ECC Sweden has also reported several companies within the industry to the police.

This report is written by the Swedish Consumer Agency in cooperation with ECC Sweden. It gives a description of the work carried out by ECC Sweden as well as an analysis of the consumers' position on the market. The report is due to an assignment, by the Swedish Government to the Consumer Agency, to follow and analyse the development within the consumer area and to describe the conditions for the consumers in some markets. The Consumer Agency decided to, among other markets, study the timeshare and holiday clubs market. The analysis is done solely by the Consumer Agency.

It is with great pleasure I now present the translation of the Swedish report. I would like to quote two sentences:

The Swedish Consumer Agency's compiled evaluation is that the operation that ECC Sweden undertook in this area has in many parts been successful. Selecting various collaborative tools to improve the consumer's situation has shown to be effective.

Karlstad December 2007

Agneta Gillback
Director

Table of Contents

Table of Contents.....	3
Introduction.....	6
Background.....	6
Purpose.....	7
Questions	8
Limitations.....	9
Definitions/Central Concepts.....	9
Method.....	11
Consumer's Problems in Various Parts of the Market.	12
Timeshare, Timeshare-like Products, Holiday Clubs, Travel Discount Clubs etc. - selling methods	12
Resellers and Legal Aid Companies.....	13
Consumer Problems with Timeshares Prior to the Implementation of Directive 1994/47/EC.....	14
Consumer Cases.....	17
ECC Sweden's Case Statistics.....	17
The EU Commission's Compilation of Consumer Cases in the ECC Network.....	18
Consumer Problems and Case Processing at Other ECC Offices	20
Informational Work	20
Case Processing at Other ECC Offices.....	20
Consumers of Timeshares and Holiday Club Memberships	23
The EU Commission's Analysis of Consumers	23
Age.....	23
Gender and Family Status.....	23
Professions and Annual Incomes.....	24
Place of Residence and Form of Housing.....	24
The Consumers According to ECC Sweden's Case handlers' Evaluation.....	24
Age.....	25
Gender and Family Status.....	25
Professions and Annual Incomes.....	26
Place of Residence and Form of Housing.....	26
Other	26

The Consumer Group’s General Character and Most Commonly Occurring Consumer Problems According to ECC Sweden’s Case handlers	27
The Consumer Group’s Media Habits	28
Possessing and Spending Money	31
The Industry and its Economy	32
The Development of the Supply Side	32
The EU Commission’s Analysis	32
Timeshare Consumers' Association's (TCA) View of the Development on the Market.....	33
In which Country are the Companies active?	34
The EU Commission’s Analysis.....	34
Economy	35
Employees and Turnover	35
Regulations on the Market.....	35
Applicable Legislation.....	35
Proposal for a New Timeshare Directive.....	37
Other Regulations for the Market	38
The Activities of ECC Sweden.....	38
Informational Activities	38
ECC Sweden’s Informational Material.....	39
Media Activities.....	40
Contacts with Local Consumer advisors and Other Information Relays.....	41
ECC Sweden’s Work in Relation to the Legislative Assemblies	41
To the EU Commission.....	41
Referrals to the Swedish Government	43
To Swedish EU Parliamentarians and the EU Parliament.....	44
ECC Sweden’s Work Directly Aimed at Individual Consumers.....	44
Other Work	44
The Effects of the Work.....	45
The Effects of the Informational Work.....	45
The Effects of ECC Sweden’s Media Activity	45
The Effects of ECC Sweden’s Informational Material.....	45
The EU Commission’s Analysis.....	46
ECC Sweden’s Informational Efforts Directed to the Media – A Simple Statistical Evaluation	46

The Effects of the Work toward the European Commission and the Legislator	49
The Effects of ECC Sweden's Work Directly Aimed at Individual Consumers.....	50
Summary Discussion and Analysis.....	50
The Development on the Market	51
Consumers' Conditions, Consumption Patterns	52
Sources.....	54
Appendix 1. Theory Regarding the Effects of Communicative Efforts	56
Appendix 2. ECC Sweden's Case handlers Over Time and Their Experiences.....	62

Introduction

Background

The timeshare market has been in existence for about 40 years. For a long period it was a product greatly associated with various kinds of consumer problems. One consequence of this was that the EU Council of Ministers in 1994 adopted a directive regarding timesharing (the right to use immovable properties on a timeshare basis, 1999/47/EC), the so-called timeshare directive.

During the 1990's upon the initiative of the European Commission, a network of consumer affairs offices were established and charged with the task of helping consumers wanting to make purchases in countries other than their own in the common internal market. The Network, called the European Consumer Centre Network, ECC-Net, was 50 % financed by the European Commission. In 2000, the Swedish government decided to sign Sweden up and in the following year European Consumer Centre Sweden (ECC Sweden) was established with an organisational position within the Swedish Consumer Agency. Today, some 27 countries are members of the network. The Commission has evaluated the operations of the offices over the three-year period from 2004 - 2006. ECC Sweden has thereby received top scores in each of the three years.

In 2001, the Swedish EEC office opened and right from the start it was noticed that timeshares represented a product and market presenting problems for many consumers. The reports flowed in and at its height the proportion of cases related to timeshares and similar products (holiday clubs etc) amounted to about 30 % of the total case load processed by ECC Sweden.

As a consequence, ECC Sweden undertook a series of informational measures with the aim of remedying the consumer problems that had been noticed. Principally, it was a matter of:

- going out with press releases as well as contacting the media in other ways
- publishing information on the website
- producing its own information folders
- training Local Consumer advisors

The information folder was initially distributed, as well as the other material from the Swedish Consumer Agency, via Local Consumer advisors. Later, it was also distributed in cooperation with Swedish travel agencies to holiday resorts for dissemination directly to consumers at a total number of about 190,000.

ECC Sweden has also undertaken measures which more generally aim to strengthen the consumer's position on the market. Two reports, one of which is common to the entire ECC network, with descriptions of consumers' problems on the market has been produced by the European Commission and Swedish parliamentarians in the European Parliament *et al.* Furthermore, ECC Sweden has replied to referrals to the Swedish government and to the European Commission with regard to proposals for new legislation in the area. ECC Sweden has also reported several companies within the industry to the police and has cooperated with the Swedish Police Service as well as with international prosecutors' offices.

Judging from the amount of cases coming into ECC Sweden since the spring of 2001, the proportion of consumer problems related to timeshares and timeshare-like products has successively declined. In 2001 and 2002, the proportion of cases coming into ECC Sweden was about 30 percent and in 2003 it was 16 percent but since then the proportion has been about 10 percent. The number of cases on the other hand has not especially changed, except for in the year 2002.

Purpose

The overall purpose of the sub-study is to show consumers' conditions on the market for timeshares and similar markets or markets related to these. The aforementioned case proportions show that there is a rather widespread problem for consumers who choose to obtain timeshare residences in some form.

In order to remedy the problems of this kind, facing customers there is a series of means of which information and legislation are two.

One further purpose of the sub-study is to evaluate the informational measures which were carried out by ECC Sweden as well as those measures which were

taken in order to strengthen consumer protection in the area. This is of interest to the Swedish Consumer Agency and to ECC Sweden for two reasons: Firstly, these are relevant lessons for the agency about the effects of the undertaken measures. The lessons taken from this also enable better measures to be taken in the future with regard to information to the consumer as well as on the market in question and on other markets. Finally, one purpose is to study the effects of the changes in laws and regulations.

Questions

Based on information of various types about:

- consumers' conditions on the market for timesharing including related holiday products.
- the market's supply side, that is to say industries and companies which offer services of various sorts in the field
- laws and regulations which regulate the market
- ECC Sweden's measures aimed at reducing the quantity of consumer problems in the field.

The following questions have been analysed:

- What does the typical consumer on these markets look like?
- How much have ECC Sweden's informational efforts been tailored to the target group?
- What is it being consumed and in what scope/magnitude?
- What will the consequences be of those lacks and/or gaps which may be present in regards to regulations and laws?

In addition, ECC Sweden reported on previously undertaken analyses regarding the questions:

- Are there lacks and/or gaps in the current regulations and legislation in the area?
- What supplementary legislation could possibly be in order?

Limitations

The study is limited to only encompassing those product categories described below, *i.e.* timeshares, holiday clubs, resellers, legal aid companies and products related to such categories. Moreover, it is only Swedish consumers' circumstances as consumers of timeshares and related products abroad which was analysed, but to a certain extent the foreign experience is also included in the study. A third limitation results from the scope and content of the material that was available for descriptions and analyses within the framework of the study.

One essential contribution from ECC Sweden is the benefit created in connection with the help of individual consumers in the processing of individual cases. Evaluation of this benefit contributed by ECC Sweden constitutes a broad-ranging effort. With only one exception, this has been excluded from this study. Those parts of ECC Sweden's operations dealing with the processing of individual cases are therefore not encompassed by the study except for some concise descriptions of the effects when it comes to economic counselling, counselling about legal positions as well as ECC Sweden's police reports.

Definitions/Central Concepts

Timeshare

To own a timeshare means that one buys a right of use in a determined apartment for a determined period of time. This means that the consumer may reside for the same week each year in the same apartment.

A timeshare contract for the purposes of the current EU directive furthermore assumes that the contract was entered into for at least three years, that a determined total price has been agreed upon, that a seller directly or indirectly has granted, transferred or has committed to transfer ownership or other right with respect to the use of immovable property for a determined or determinable time of the year which may not be less than one week.

Timeshare-like Products, Holiday Clubs, Travel Discount Clubs etc.

There is an abundance of so-called Timeshare-like products. This refers to contracts for any form of shared accommodation, but which for some reason fall outside the

purview of legislation. For example, as they apply to a period of less than 3 years, a continuous period of residence during each visit which is shorter than a week or that they give a right of usage for things other than immovable property such as boats or caravans.

Furthermore, there are Holiday Clubs. Membership in such clubs entails the consumer signing a contract which entitles him to accommodation but does not specify a particular apartment, rather just a certain kind of apartment in any of the club's premises. There is also a contract where the weeks are flexible, which means that the consumer himself can to a certain degree control over when he or she wants to use his week. Otherwise, a share in a holiday club can be designed in different ways.

Other similar products are so-called Travel Discount Clubs and Point Clubs. A membership in a travel club entails the consumer paying a membership fee and gaining access to the club's booking system. The consumer then receives a special price on flights, accommodations and other services. There are also a number of different point clubs, where a membership entails the consumer buying points which then can be used to book holiday accommodation at one of the club's facilities.

Resellers and Legal Aid Companies

In addition to the aforementioned products there are resellers and legal aid companies. So-called resellers consist of a kind of broker who contacts timeshare owners and offers a sale of the share. The consumer pays for the service in advance but there is seldom ever any sale. The so-called legal aid companies purport to be lawyers and offer consumers legal assistance against a timeshare company or a holiday club which con the consumer out of money. They offer themselves to be the consumer's attorney in a legal proceeding. So far, there is no evidence that a legal aid company has in fact ever helped any consumer.

Exchange Companies

An exchange company offers timeshare owners and holiday club members a service which entails exchanging a contracted period and/or location/facility. The exchange means that the consumer transfers his share or membership to the exchange

company in order in turn to gain access to someone else's share. Following the transfer, it is often seen that the access to new shares is limited and that the expenses due are considerable in relation to what was originally indicated.

Common to all timeshare-like products, holiday clubs, resellers, exchange companies etc. is that there currently is no consumer-protection legislation, neither in Sweden nor at the EU level.

Definition of the Market

For this study, a broad definition of the market has been chosen. The market consists of trade in all products/product categories as defined above.

Definition of Consumer Case

A case with ECC Sweden can either be a request for information prior to a purchase or a request for help with problems following a purchase. The latter are designated as complains. If the complaint can not be settled, then the case becomes a dispute.

Method

The method selected entails a compilation of information and data of various sorts both internally at the Swedish Consumer Agency/ECC Sweden as well as from external sources. The identified material has since been evaluated with regard to its validity and reliability. The purpose of this was to form a basis for a credible, accurate analysis of the aforementioned issues.

As far as the study was concerned about how typical consumers on the market look, it was based on interviews with ECC Sweden's caseworkers¹. The part with the structured interviews with ECC Sweden's current and previous caseworkers has been undertaken with the help of a university student at the University of Växjö.

Statistical analyses of the connections between various types of informational activities by ECC Sweden, the effects of these such as newspaper articles, TV or

¹ The case handlers interviewed have great differences in time of employment and in work of the kind which timeshares and other such products entail. Even the time periods during which they have been employed varies to a great extent.

radio announcement and the quantity of cases to process have also been undertaken within the frame of the study.

Consumer's Problems in Various Parts of the Market.

Timeshare, Timeshare-like Products, Holiday Clubs, Travel Discount Clubs etc. - selling methods

The selling takes place at the holiday location without exception. It often begins with pleasant youths approaching a Swedish couple out for a walk along the beach and offering a lottery ticket where in principle each ticket is a winner. In order to collect the prize, the consumer needs to go to a hotel facility. Another method is a request for the consumers to take part in a questionnaire survey and in appreciation one receives a gift which is to be collected at a hotel facility. In both cases, the consumers are transported by taxi to the facility where a sales meeting is in progress. For a few hours, the facility is presented as are the advantages of, for example, a membership. Often, even refreshments are served. The same sales methods are often used toward consumers regardless of nationality, but the salesmen often speak the consumers' own languages.

The offers about which the salesmen inform the consumer are presented as "one-day-only-offers" and then a quick decision is needed on the part of the consumer. They do not get the time in peace and quiet to go through the contract and think over their own economic situations. The sales methods are aggressive and are besides often misleading since much is promised which is then not found in the written contract.

The sales methods in themselves often entail the following consequences for the consumers:

- That the consumers feel compelled to sign a contract into which they really do not want to enter
- That the consumers feel compelled to payment in advance without having enough time to think through the economic consequences of the agreement
- That the consumers receive spoken promises about a right of cancellation and investment objects and such which are then not found in the written

contract and thereby become difficult for the consumer to prove.

- That the information provided by the salesman about travel costs of value increases proves to be incorrect.
- That the consumer encounters various kinds of unexpected expenses.
- That the consumer protections do not apply as the contract falls outside the purview of the application of the law.

Resellers and Legal Aid Companies

Resellers and legal aid companies make use of selling methods which are different from timeshare and holiday club companies. The latter contact the consumers at the actual holiday location, i.e. in the country where the company is active. Resellers and legal aid companies on the other hand contact Swedish consumers in Sweden. This is done via so-called “cold-calling”, which means that the company contacts the consumer by telephone without the consumer first having asked to be contacted. The calls often come from countries outside Sweden, primarily from Spain. The contact can even be made by mail. It is not uncommon for the company to get back to the consumer several times to try to convince the consumer into entering into an agreement regarding retailing legal aid.

Reselling services are presented as being very advantageous offers where the consumer only has a short time to make a decision. The person calling can often be very friendly and moreover directly personal. The consumer must pay an amount of money in advance in order to gain access to the service. Then either nothing happens or the consumer gets to find out after some time that a potential buyer has been found. In order for the sale to be completed, the consumer is required to pay an additional fee. Often there is no buyer and no sale ever comes about. Instead, the reseller disappears or becomes practically unreachable once the consumer has paid.

Legal aid companies also contact consumers via so-called “cold calling”. They offer legal aid and claim to initiate a court proceeding against the timeshare company or holiday club who has previously misled the consumer. The legal aid company claims that for a few hundred euros it can represent the consumer. ECC Sweden has on numerous occasions asked companies to prove that they actually have helped consumers, but no evidence has been presented. The service is

however presented as being very beneficial. If the consumer accepts the service, he or she must sign a contract and pay a sum of money in advance. Then the company sends home the document to the consumer where it is stated that the company is working on legal investigations etc. in order to start a proceeding in court.

The sales methods used by all of these people are rather aggressive and as well often misleading since much is promised which is then not found in the written contract. ECC Sweden has never seen any example of a legal aid company performing the service for which the consumer paid and only in one single case has a reseller managed to sell a share. It is ECC Sweden's evaluation that in the majority of cases this is a matter of direct fraud and ECC Sweden has therefore reported to the police a number of companies and has also encouraged consumers to file police reports.

Consumer Problems with Timeshares Prior to the Implementation of Directive 1994/47/EC

Prior to the implementation of the EC directive in the Nordic countries about so-called timeshares, a project group was appointed with the task of producing a framework which the various Nordic government offices could use to implement the EC directive with regard to each country's legal system. A part of the project was to make an overview in each country of the timeshare market with regard principally to size and development, companies on the market as well as to the nature of consumers' problems and development. The framework of the project group was delivered in the report - *TemaNord 1995:646*.

A common, compiled picture of the principal consumer problems came forth, which showed the following²:

- Pushy and aggressive personal selling
- The seller does not right from the beginning say that it is about a timeshare. Instead, he starts off talking about presents, invitations to showings, lottery prizes (which must be collected at another place), etc. Even "membership" in some club, "holiday certificates" and the like cover up the seller's message.

- Too short a period of deliberation prior to a purchase decision, advance payment.
- Incorrect information about the travel cost, increases in value etc.
- Unexpected and high costs for administration and maintenance of the timeshare premises, for use of the timeshare residence, trips etc. Unexpected costs for the exchange agency.
- High price for the timeshare. Unreliable procurement of credit.
- Disputes are referred to the legal authorities in another country which provide less protection for the consumer and perhaps lack social support for complaints.
- Payment via bill of exchange, which makes it impossible for the buyer to pose objections with regard to the purchase.
- There is no functional sublet market.

In connection with the project group producing the aforementioned listing, the need for consumer protection above and beyond the EC directive requirements was analysed. The report showed the need connected to the various paragraphs of the directive where the project group deemed it to be relevant.

With regard to *the scope of the directive* (Article 2), the project group recommended that the time limitation below, that the contract regarding residence for less than a week, be removed. The evaluation of the group was that there is a “disquieting risk” that a company can be tempted to sell shorter periods of time than one week, where weekend solutions of 2 or three days are mentioned as possible business ideas.

On the other hand, it was not judged that there is a need to table legislation so that even contracts pertaining to periods of less than three years should be included. The evaluation was that it should be of no interest to the seller to sell with such a short contractual period so that it would be necessary to set the price so low that it would contribute to the financing of the timeshare facility to a small extent. However, the project group stated that the “continued development” should be followed closely

² The point list is from TemaNord (1995:646).

and that if “it should become apparent that the rules of the directive are being circumvented” then the requirement should be made stricter.

In Article 3 of the directive, which deals with information in the marketing, the project group stated that the consumer already prior to the contract situation should receive “information about *the distance to the train and airport* and other information about public transit at various times of the year.” Otherwise, the project group did not see any need of further legislated protection when it comes to the informative duties of the seller. On the other hand, a recommendation was presented that a certain fill-in form (according to the model found in home sales) which the buyer can use when he exercises his right of cancellation. Among the reasons for this is to ensure that the consumer is made aware of such information.

Regarding the content of the contract (Article 4) the project group has only one viewpoint on the directive. It recommended that in the directive’s appendix (point a) it be added that information shall be given as to whom at the timeshare facility the consumer can turn with any complaints.

The project group stated with regard to the right of cancellation and relinquishment, which is dealt with in Article 5 of the directive, that “a reasonable buyer's remorse period be extended to *at least 14 days* while maintaining a connection to a ban against deposits or other advance payments during the period”. With regard to the directive’s supplementary regulations in Article 5 about an extra period of buyer’s remorse of 3 months, the project group points out the civil litigation consequences which apply to the sale of homes in the Nordic countries. What is meant by this, is the regulation about the buyer not being bound to the contract, if the seller does not hold to certain stipulations of the legislation regarding the selling of residences. The project group put forth that a corresponding solution should be chosen for the sale of timeshare property as well as the grace period set to one year.

As it applies to the implementation of the contract between the buyer and the seller of timeshares, the project group felt that signing of bills of exchange as a form of payment was not acceptable as the consequences for the buyer can be serious. The reason for this is that when a consumer pays by signing a bill of exchange, he no longer has an opportunity to make objections with regard to the purchase.

However, it can be established later that a development toward products with contracts for period of less than 3 years, which the project group finds less credible, has taken place.

Consumer Cases

ECC Sweden's Case Statistics

ECC Sweden has since its beginning and until the first half of 2007 received about 17,000 cases. During the first years of operation, the total number of cases increased by approx. 15 - 20 percent yearly, a rate of increase which has since diminished. During 2001 and 2002, about 30 percent of all cases pertained to timeshares and similar products. In 2003, the proportion was 16 percent but has since then been approx 10 percent. The number of cases on the other hand has not especially changed, except for in 2002 when the number of cases was unusually high, over 600. For the other years, the number of cases in this area has been between 300 and 400. During the first six months of 2007, some 1610 cases were received of which 160 pertained to timeshares and similar products.

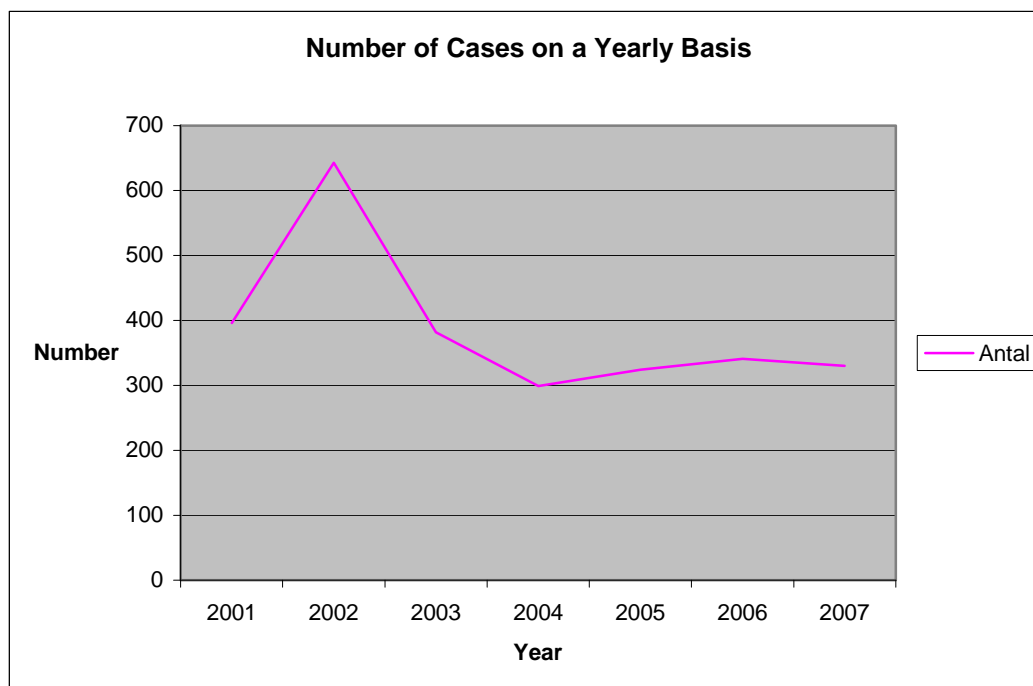
For the first 5 years, ECC Sweden registered all these cases as "timeshares". As of 2006, one can however get information from the statistics about the number of cases which pertain to "purchases of timeshares", "sales of timeshares" and the number pertaining to "holiday clubs and the like". In 2006, ECC Sweden had a total of 319 cases pertaining to timeshares and holiday clubs and the like. 182 of these were holiday clubs and similar products, while only 52 pertained to the purchase of timeshares and 85 dealt with the sales of timeshares (i.e. resellers).³ During the first half of 2007, some 106 cases were received pertaining to holiday clubs and the like compared to 54 timeshare cases. This means that more Swedish problems are currently related to holiday clubs etc. than to timeshares.

At the European level, the development toward holiday clubs seems to be confirmed by the Commission's consultation from 2006, where the Commission received over 100 responses from interested parties (consumer organisations,

companies, industry organizations, member states) which point out that there are considerable consumer problems regarding holiday clubs and the like.⁴

Figure 1 below shows ECC Sweden's statistic of the number of cases per month regarding timeshares, holiday clubs and the like between 2001 and 2007.

Figure 1. Number of received cases on a yearly basis, values for 2001 and 2007 are recalculated at the value on a yearly basis.



The EU Commission's Compilation of Consumer Cases in the ECC Network

The European Consumer Centre Network, ECC-Net, and thereby ECC Sweden, provides information and advice to consumers who shop across borders within EU as well as in Norway and Iceland. This is done through direct counselling via telephone, e-mail or post. Moreover, information is provided on the web site as well as in information brochures.

³ DiaEU

⁴ COM (2007) 303 final, SEC (2007) 744, s.33. Those Swedish parties from whom the Commission expressly requested an answer were the Swedish Consumer agency, The National Board for Consumer Complaints, the Estate Agent Association, FMF, the Consumer Counsellor's Association,

The European Consumer centres Network is regarded by the EU commission to be well suited to judge the situation on the market as the network on a daily basis receives complaints and can gather statistics regarding areas to which the complaints pertain as well as their outcomes. The network's statistics are thought to be a good key indicator of the scope of the problems.⁵ Statistics which register timeshares and holiday clubs and the like separately are only found from the beginning of 2006. It can be stated that the number of consumer complaints pertaining to traditional timeshares received by the ECC network is diminishing.

According to the EU commission's Impact Assessment⁶, the proportion of complains pertaining to these markets at the EU level increased from 3.7 % to 6.2 % between 2001 and 2002 and then decreased in the following year. The number of complaints grew from approx. 3,300 cases in 2001 to just under 2,000 cases in 2005, then to increase again to about 2,300 cases in 2006. The top was 2002 when more than 3,500 cases were reported.

In 2002 even the number of cases pertaining to timeshares, holiday clubs etc. reached a high in Sweden with more than 600 cases coming in to ECC Sweden. In Spain, on the other hand, a pronounced reduction was reported in the number of cases between 2001 and 2002. In 2001, Spain had more than 1,000 cases, but the figure sank to under 300 in 2002. Furthermore, a reduction in the number of cases in Spain can be seen between 2003 and 2004. The reduction in 2004 could possibly be explained by a judicial ruling from February of 2004 when the Spanish court declared that holiday clubs and the like can not in any way fall under the same legislation as timeshares.⁷ On the other hand, there was a considerable increase in the number of Spanish cases in 2006 of about 350 percent.

Between 2005 and 2006, there was also, as in previous years, an increase in the total number in the EU. Moreover, there is a clarification of the statistics in 2006 since the Commission and the ECC offices agreed to register timeshares separately from holiday clubs. This leads to another statistic which shows that during the first

the Swedish Consumer Coalition, the Swedish Consumer's Association, Semesterhus Fjäll & Hav AB.

⁵ COM (2007) 303 final, SEC (2007) 744, p.25

⁶ COM (2007) 303 final, SEC (2007) 744, s. 27

⁷ COM (2007) 303 final, SEC (2007) 744, p.29

half of 2006, only 117 complaints were received pertaining to traditional timeshares and 846 complains pertaining to holiday clubs, resellers and the like. In the definition of a consumer case in the beginning of the report, it states that a consumer case either can be a request for information prior to a purchase or counselling due to a complaint following a purchase. It should therefore be noted that the statistics for the first half of 2006 only pertain to complaints. According to the information from EU Commission, the statistics show that approx 87.8 % of consumer complaints to the entire ECC network from January to June 2006 regarding this market applied to that part which is outside the purview of the legislation.⁸

Consumer Problems and Case Processing at Other ECC Offices

At a workshop about holiday clubs which ECC Sweden arranged on 21 November 2007, ECC offices from 11 countries including Sweden took part.⁹ Prior to the workshop, the offices were asked to answer questions pertaining to information for consumers and questions about the case processing. Ten countries answered the questions and the answers are shown below.

Informational Work

The information the questions produced as a result showed that nine out of ten countries for the most part use the web site as a source of information, six out of ten have specific informational material in the form of folders or brochures, and four out of ten make use of the media.

Case Processing at Other ECC Offices

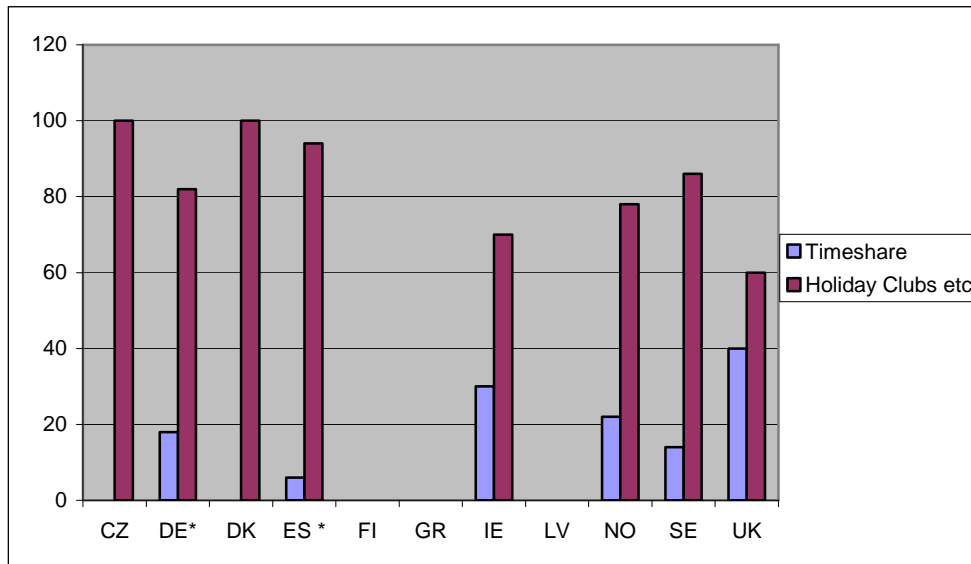
The first question regarding case processing dealt with the relation between the number of timeshare complaints and the number of holiday complaints so far in 2007. According to the definition of consumer cases in the beginning of the report, a consumer case can either be a request for information prior to a purchase or counselling due to a complaint following a purchase. It should also be noted that the

⁸ The figure regarding the proportion of consumer complains is cited from COM (2007) 303 final, SEC (2007) 744, p.30

⁹ The other ten were the Czech Republic, Denmark, Finland, Germany, Greece, Ireland, Latvia, Norway, Spain and the United Kingdom.

information in figure 2 below only pertains to complaints, and can therefore not be compared with the total number of cases. The result of the ECC offices' answers, as shown in figure 2, shows a clear dominance of holiday club cases.

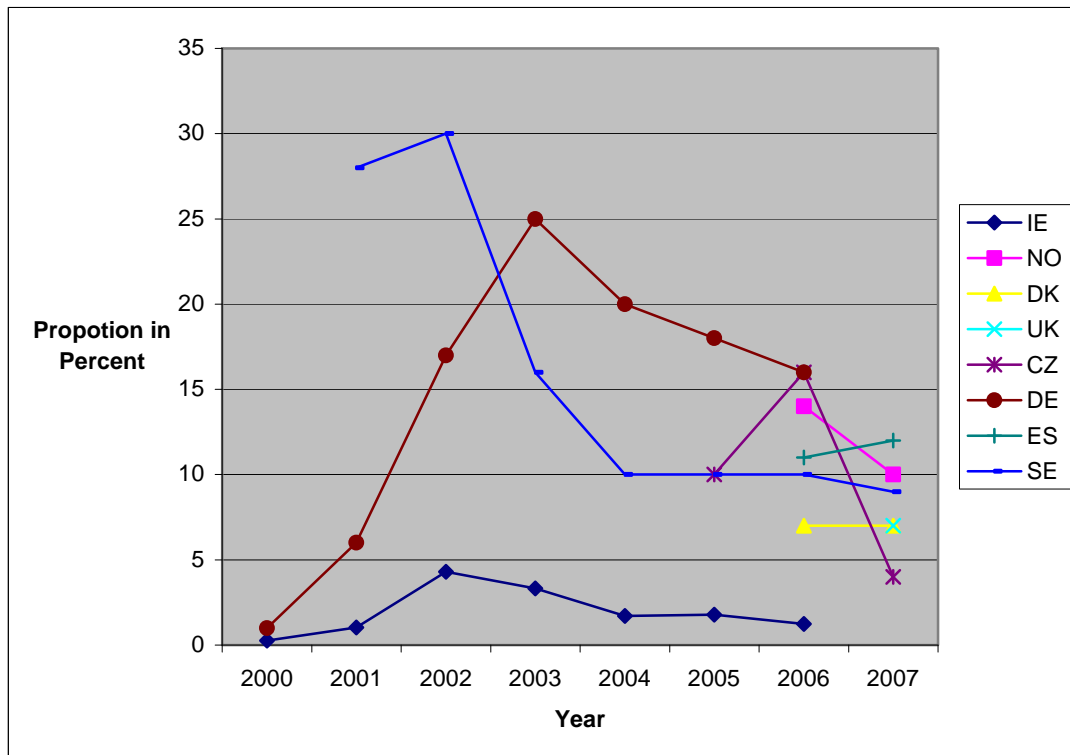
Figure 2. Complaints regarding timeshares and holiday clubs at various ECC



When reading the information above, it should be pointed out the figures from Spain and Germany (ES and DE) show statistics from 2006. Furthermore, it should be pointed out that Greece, GR, has not submitted any information at all, and that statistics from Finland and Latvia (FI and LV) are insufficient to form a conclusion.

Moreover, the ECC offices were also asked about the case development of timeshare and holiday club cases on the one hand and the total number of cases on the other. The values were brought forward and the year proportions and results were reported in figure 3 below. Since certain countries reported statistics from several years back while other countries only reported statistics from 2006 and 2007, the diagram does not give a correct picture for all consumer offices. In Sweden and in Ireland, the proportion of cases related to timeshares and holiday clubs was highest in 2002 with a pursuant decline in 2003 and further in 2004. Germany has remarked a similar development, but with a top record of such proportions from the year 2003. Ever since 2004, the number of cases seems to have levelled out more or less at all responding offices, however it should be pointed out that the statistics from Germany only extend up until 2006.

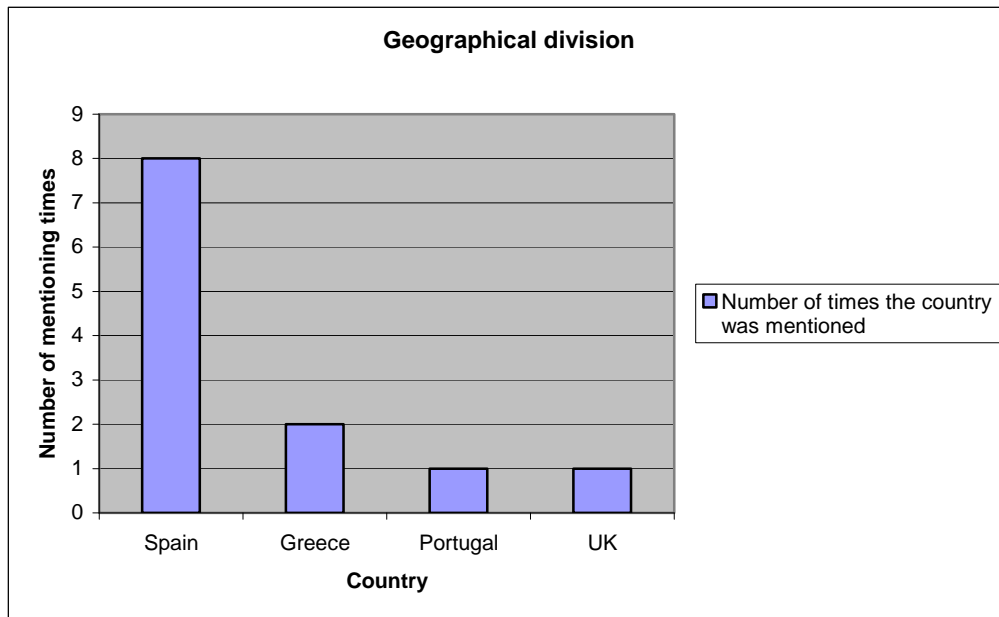
Figure 3. Case development with regard to timeshare and holiday club cases as a proportion of the total number of cases at various ECC offices



In connection with the workshop, the ECC offices were also asked to contribute with basic data about in which country or countries their consumers run into the most problems regarding timeshares and holiday clubs. The replies in the questionnaire are shown in figure 4. Most offices reply by stating one or two countries, others answered more and three offices did not answer at all. Five offices answered Spain alone as a problem country. Two other offices indicated Spain and Greece or Spain and the United Kingdom. One office answered three countries, namely Spain, Greece and Portugal. In other words, there were 8 offices who answered Spain, two who answered Greece and one office indicating Portugal and other answering the United Kingdom.

Since both Greece and Spain are industry countries and thereby do not take any complaints from domestic consumers regarding these markets, they could not either answer the question. Latvia also stated that it was not able to answer the question. Figure 4 below shows that it is above all entrepreneurs active in Spain who cause problems for the consumers.

Figure 4. Geographical division of where consumers' problems occur



Consumers of Timeshares and Holiday Club Memberships

The EU Commission's Analysis of Consumers

According to the EU Commission's Impact Assessment, COM (2007) 303 final, SEC (2007)744, where opinions from about 100 interested parties within the EU have been gathered, timeshare and holiday club consumers can be described as follows¹⁰:

Age

In the evaluation of the EU Commission, the average age of the consumer group is 55.

Gender and Family Status

The commission says nothing about the gender distribution, however it is indicated that consumers are largely in coupled relationships. Moreover, it was the general evaluation of the interested parties that the consumers by and large have grown children who have left home.

¹⁰ Ibid, p.72

Professions and Annual Incomes

The Commission's information indicates that 58 % of owners have so-called high-status professions, i.e. management positions, upper civil servicemen, businessmen and business owners. Furthermore, the consumers are said to have a mean annual income of €45 000.

Place of Residence and Form of Housing

Of the answers received by the Commission, it could be shown that the interested parties stated that 92 % of those consumers affected own their permanent residences.

The Consumers According to ECC Sweden's Case handlers' Evaluation

In Total, ECC Sweden up until June 2007 received approx 2,400 cases pertaining to timeshares, timeshare-like products, holiday clubs etc. A survey was done in the autumn of 2007 among all case handlers at ECC Sweden since 2001. The purpose was to become familiar with the case handlers' experiences with timeshare holiday club consumers regarding age, gender, professional category etc. It should however be pointed out that different case handlers have worked for different lengths of time during different time periods, which is why each case handler's knowledge of the market varies¹¹.

ECC Sweden and its sister offices within the European Consumer Centre Network (ECC-network) receive a total of over 40,000 cases annually. Their mandate is to handle consumer complaints in combination with that a number of complaints are seen to constitute a strong indication about how the market looks. This has resulted in the EU Commission stating the ECC network's staff have good knowledge about the various problem areas.¹²

One purpose of the report by ECC Sweden's case handlers' evaluations when it comes to consumer groups is to enable comparisons with the corresponding socio-economic group's consumption of media. The comparison between this picture and

¹¹ In Appendix 2, the variation between various case handlers regarding time of employment and the number of cases involving timeshares, holiday clubs etc. is reflected.

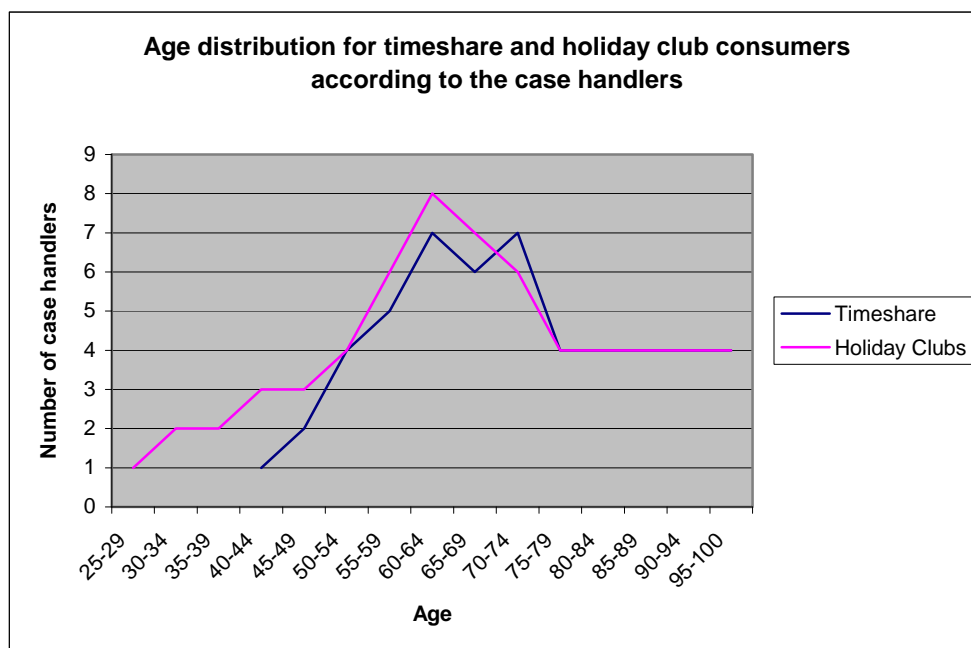
¹² COM (2007) 303 final, SEC (2007) 744, p25.26

the picture from ECC Sweden’s informational efforts via the media reflects the extent to which ECC Sweden’s information via the media has been delivered in a manner suited to the target group. For these reasons, the evaluations made by the ECC Sweden staff in terms of age, gender and family status, profession and income as well as place of residence is reported in the following.

Age

Every case handler with the exception of one indicated that the consumers who contact ECC Sweden with regard to timeshares or holiday clubs seem to be “older”. Moreover, seven of nine case handlers indicate that timeshare consumers overall are somewhat older than holiday club consumers. The overall evaluation is that the former are older than 55 by not much older than 70. The case handlers’ answers regarding the ages of the consumers is seen in figure 5 below.

Figure 5. The consumers age distribution according to the case handlers.



Gender and Family Status

As it applies to gender distribution, all case handlers are agreed that it is overwhelmingly couples who turn to ECC Sweden after having experienced problems. Furthermore, all the case handlers asked believe that timeshare and holiday club consumers are in a steady relationship and that they received the offer

to purchase together with their partners. Most of all, it seems to be married couples and seven of nine case handlers believe the consumers have grown children.

Professions and Annual Incomes

Profession and annual income are not variables registered by ECC Sweden's case processing. Making a statement about the consumers' possible professions and annual incomes must therefore be seen as a difficult task. The evaluations made by ECC Sweden's case handlers shall therefore only be regarded as qualified guesses. The difficulty in evaluating professions and annual incomes is exemplified in that nine case handlers thought themselves not qualified to answer these questions.

In total, four case handlers however pointed out they the subjects in question are often pensioners. Only two case handlers made a statement about the consumers' jobs, which in addition to pensioners there were above all civil servants and entrepreneurs. The case handlers were further asked if they thought that consumers were low, medium or high income earners. All believe that the subjects in question are largely middle income earners and four of nine case handlers believe that they are above all middle or high income earners. Two case handlers pointed out however that it is probably more a matter of how much capital the consumer has and not so much about annual income.

Place of Residence and Form of Housing

In connection with ECC Sweden's case processing, the place of residence in certain cases may come up. This depends on whether the consumer chose to indicate his address in connection with the filing of his case, but this is not always the case. The majority of case handlers therefore declined from making a statement about what kind of place of residence is most common. On the other hand, four of nine case handlers believe that the consumers either live in their own detached houses or have a condominium. The others have not had any estimation in the matter.

Other

ECC Sweden's case handlers were also asked for an evaluation of the consumers' ethnicities and travel habits. In terms of ethnicity, the case handlers believe in the majority of cases the consumers who contact ECC Sweden almost always are people born in Sweden. The extent to which this depends on Swedish-born people

being more prone to problems or if it depends on Swedish-born people to a greater extent contacting authorities in order to get support and help is however difficult to ascertain.

In terms of consumers travel habits nearly all of the case handlers believe that consumers are primarily charter travellers who travel largely within the EU zone once or twice per year.

Finally, it should be mentioned that the case handlers' impression of the consumer group is based on the contacts they have had with consumers who turn to ECC Sweden with problems of different natures pertaining to timeshares, holiday clubs etc. No verification has been made as to whether there are difference between these consumers and consumers who have not experienced problems in connection with consumption of timeshares, holiday clubs etc.

The Consumer Group's General Character and Most Commonly Occurring Consumer Problems According to ECC Sweden's Case handlers

Of those categories which ECC Sweden's Case handlers have been asked to make a statement, we can see two target groups depending on whether it pertains to timeshares or to holiday clubs. Those two groups have many common traits, which show that the consumers to a great extent are:

- Couples, often having grown children.
- Middle or high income earners.
- People born in Sweden.
- Charter travellers.

It can be seen as usual that timeshare consumers are approx. 50 - 70 years old and have had a timeshare for several years, but run into problems when they want to sell their share. The problems which arise are characterized in part by resellers who con consumers out of money without really selling the share, and partly due to an almost non-existent sublet market.

When it comes to holiday club consumers, the case handlers' evaluation is by and large that the subjects in question are approx 45 - 70 years old. The most frequent reason for contacting ECC Sweden is that they have joined a holiday club but then have buyer's remorse and wish to get out of contract.

A commonly occurring reaction from both consumer groups is that they are ashamed of what they have done and feel dejected.

The EU's estimation of the age etc. of those consumers on this market, namely who they are, that they are people over 50 years of age who live as a part of a couple relationship, have grown children who have left home, and are homeowners is confirmed by a large number of ECC Sweden's case handlers. One difference is found however in the result for the estimated income level and in residential form.

The Consumer Group's Media Habits ¹³

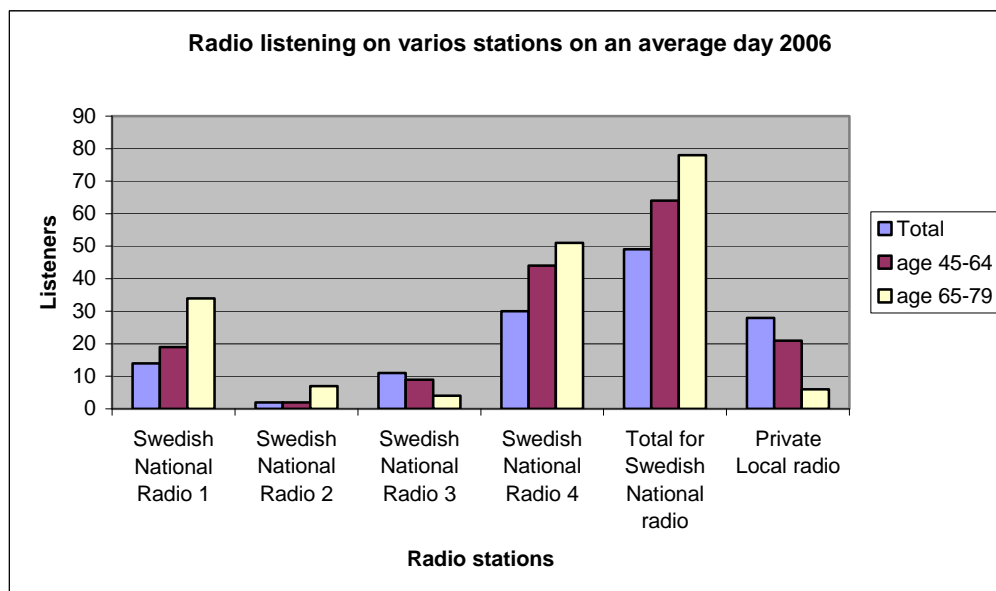
An upcoming publication from the University of Växjö will present answers from 20 interviewed timeshare and holiday club consumers who have been in contact with ECC Sweden with cases pertaining to timeshare and/or related products. The interviews were conducted in two rounds in which first 10 consumers were interviewed and then another 10. Prior to the last ten interviews the interview guide was widened and questions about the consumers' media habits as well as their knowledge of ECC Sweden was examined. Everyone except for 2 of the 10 respondents subscribes to his local daily paper and six respondents read evening papers, of these there were four who did this once or more times per week. Two respondents read the paper *Allt om resor*. When it comes to non-cost newspapers like Metro and other such newspapers, most of the respondents answered that they never or very seldom read these newspapers, and only two said that they read these about twice per week.

In terms of the internet, all respondents had access to the internet at home and all but one person use the internet everyday. They use the internet for e-mail, reading newspapers and looking up information. According to Nordicom, the Nordic

Information Centre for Media and Communications Research, 77 percent of Swedes between the ages of 9 - 79 use the internet at least once per week. For people in the age group 45-64, 62 percent use the internet everyday and among people aged 65-79 years, 26 percent use the internet everyday¹⁴. Compared to the figures which the interviews with consumers showed, these figures are lower. The reason for the difference observed is not clear. It can mean that ECC Sweden's target group uses the internet more often than average but it can also be that only this selected subject group used the internet more than average. One further hypothesis is that they use the internet more often than average due to the problems they have had as consumers. One evaluation is however that those who encounter problems with timeshares and holiday clubs do not use the internet less than average.

Everyone except for one respondent listens to the radio every day. Four respondents listen to their local radio station P4, three respondents listen to Rix FM and three respondents listen to P1. One respondent also listened to the radio station called *Rockklassiker*. Several respondents listen to several stations which means that these figures overlap each other somewhat. Nordicom's statistics of which radio stations people in the ages of 45-65 and 65-79 listen to is given in figure 6 below.

Figure 6: Radio listening on various stations one average day 2006

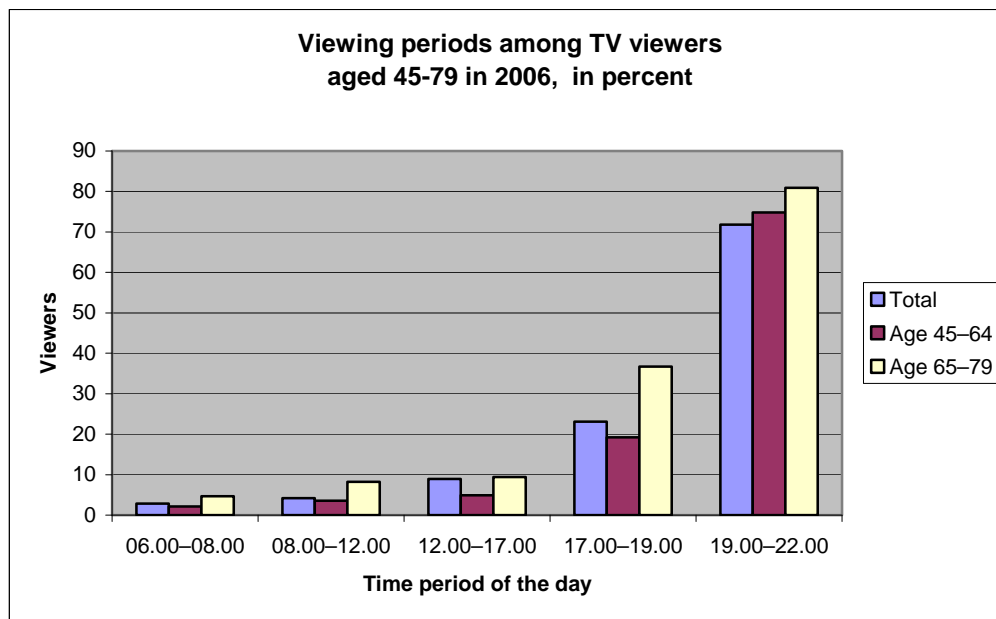


¹³ The section is based on Granlund, *Problems and Target Group Analysis: A mapping of the consumers who contact ECC Sweden for help with timeshares and holiday clubs and their problems* (upcoming publication, 2008, University of Växjö).

¹⁴ Nordicom, www.nordicom.gu.se

Regarding TV watching, all respondents except one indicated that they watch TV and they primarily watch news and sports on SVT or TV4. Nordicom also reports statistics of the time of day during which different age groups watch TV¹⁵. Data about the two age groups which are included in ECC Sweden's main target group, with regard to timeshares, holiday clubs and the like, are found in figure 7 below:

Figure 7. Viewing periods among TV viewers aged 9-79 in 2006 (in percent)



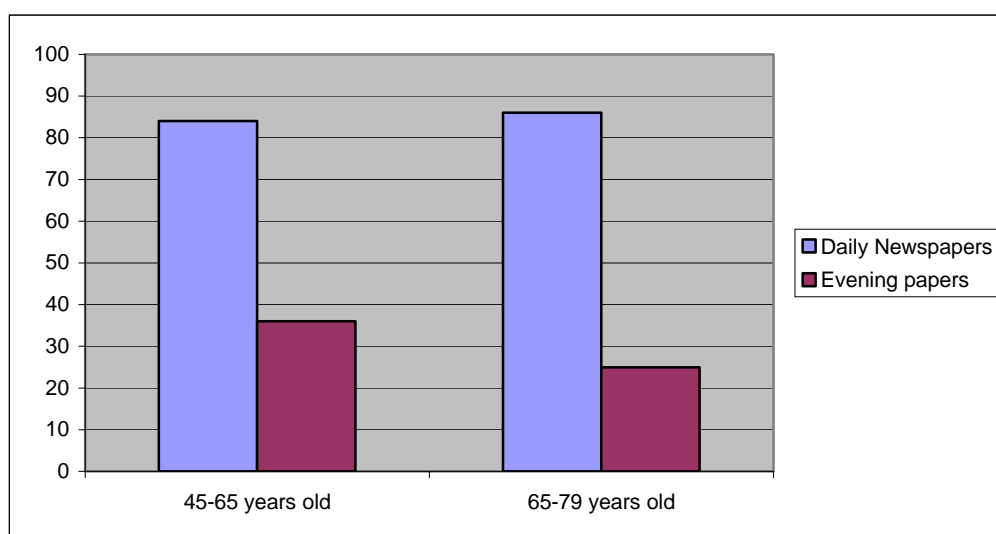
According to Nordicom, 84-86 percent of everyone between the ages of 45-79 read a morning newspaper¹⁶ and 25-36 percent of the same age group read an evening paper¹⁷ one average day in 2006, see the figure below.

¹⁵ Nordicom, www.nordicom.gu.se

¹⁶ http://www.nordicom.gu.se/common/stat_xls/967_1530_Morgontidningar_lasning_1980-2006.xls, 2007-12-07

¹⁷ http://www.nordicom.gu.se/common/stat_xls/969_1570_Kvallstidningar_lasning_1980-2006.xls, 2007-12-07

Figure 8. Proportion of daily and evening paper readers at the age of 45-65 and 65-79 one average day 2006



Possessing and Spending Money

The timeshare and holiday club market consists of products with substantial effects on the individual proprietor's economy. In total for the year 2005 it is reckoned that 1.45 million households in the EU have timeshare apartments or membership in holiday clubs or the like.¹⁸ In 2002, timeshare owners or holiday club travellers were deemed to have spent approx €725 million on annual fees.¹⁹ According to the EU Commission's Impact Assessment from 2007, each consumer pays about €150 per year in annual fees and the price of a membership ranges from €6000 up to €20 000.²⁰ With that in mind it should be mentioned that in 2001, 15,200 timeshare owners were Swedes.²¹ It can also be stated that most timeshare owners are in the United Kingdom and only 15 percent of timeshare owners in the EU are from Belgium, the Netherlands, Scandinavia and Russia.²²

In 2005, the EU has just over 460 million inhabitants and at the same time Sweden has just over nine million. This means that in the EU as a whole, that the possession of timeshares or memberships in holiday clubs is about twice as common as in Sweden.

¹⁸ Consultation Paper -Review of the timeshare directive (94/47/EC), p. 4

¹⁹ COM (2007) 303 final, SEC (2007) 744, p.72

²⁰ COM (2007) 303 final, SEC (2007) 744, p.17

²¹ Press Fiche – Sweden, p.1.

²² COM (2007) 303 final, SEC (2007) 744, p.13 and 72

The Industry and its Economy

The Development of the Supply Side

The EU Commission's Analysis

The timeshare market underwent substantial growth during the 1970's and 1980's but contracted during the 1990's. From 1994 to 1996, there was a certain period of calm on the market and growth continued at a low level. This was a result, according to the EU Commission, of the Timeshare Directive which came in 1994 and which entailed a certain self-adjustment on the market. After 1996, the growth contracted further in Europe, but on the other hand expanded in other parts of the world.²³

The commission furthermore points out that the great changes since 1994 by and large depends on the emergence of new holiday products, which resemble traditional timeshares but fall outside the purview of legislation.²⁴ Those new products resemble timeshares both in terms of marketing and sales methods. In addition, all the variants entail the consumer contracting for large amounts of money as well as committing themselves for many years ahead. Entering into a contract for members in a holiday club or the like, which is still not regulated by law, consequently entails the consumers taking a considerable risk. A purchase of a membership in a holiday club or a timeshare also entails considerable economic consequences for the consumers.

The Commission analysis also contains a brief report on the industry's view of the market. According to the timeshare industry, the contraction on the market depends on a deteriorating standard of the residence, increased yearly expenses as well as media scrutiny which to a great extent only portrays the companies as being frauds. The timeshare industry furthermore states that fraudulent holiday clubs and the like are given a competitive advantage as they both fall outside the purview of the legislation and the scrutiny of the authorities, but at the same time direct their operations towards the same consumer group.²⁵

²³ Consultation Paper, Review of the timeshare directive, p. 4

²⁴ Consultation Paper, Review of the timeshare directive, p. 5 and Timeshare in Europe – Report by Timeshare Consumers Association – 2005, <http://www.timeshare.org.uk/tr5.html>.

²⁵ Consultation Paper, Review of the timeshare directive, p. 5 and Impact Assessment, p.15-16.

In a 2005 report, the industry also points out the unbalance in competition as one of two reasons to the reduced attractiveness of the timeshare industry in the last 25 years.²⁶ For a more balanced competition, a regulation on those in these markets is also sought. In the meantime, in the course of the Commission's task in monitoring of the timeshare directive, the industry has lobbied for holiday clubs and the like to be regulated by a different set of directives than those for timeshares as the timeshare companies do not want to be associated with holiday clubs and the like.

Timeshare Consumers' Association's (TCA) View of the Development on the Market

TCA is a politically and economically independent organisation for timeshare consumers in Europe. The Organisation was founded in 1997 with the purpose of making timesharing a pleasant form of vacationing. TCA has its headquarters in England, but supports consumers around Europe.

Owing to the aforementioned developments, TCA writes the following in its report from December 2005.

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

TCA’s view of the market and its development can be summarised as such:

- Sales on the market continue to decline. Even leading companies have declared losses in recent times.
- Due to the declining standard of the facilities and the growing costs to owners, timeshare owners are relinquishing possession.
- This in turn results in the number of members declining.
- Consumers’ and the media’s view of the market continues to be dominated by cheats, cons, swindlers and pure fraud in the companies on the market.
- The legislation in the field has not followed along in order to remedy the criminal element that is present. TCA’s evaluation is also that the scrutiny and consequences of criminal activity is far too weak.

- The timeshare industry and its managers do not try to regain the lost trust of the consumers.
- A wide-spread view among timeshare consumers is "had we known that it was about a timeshare we would not have gone in"

In which Country are the Companies active?

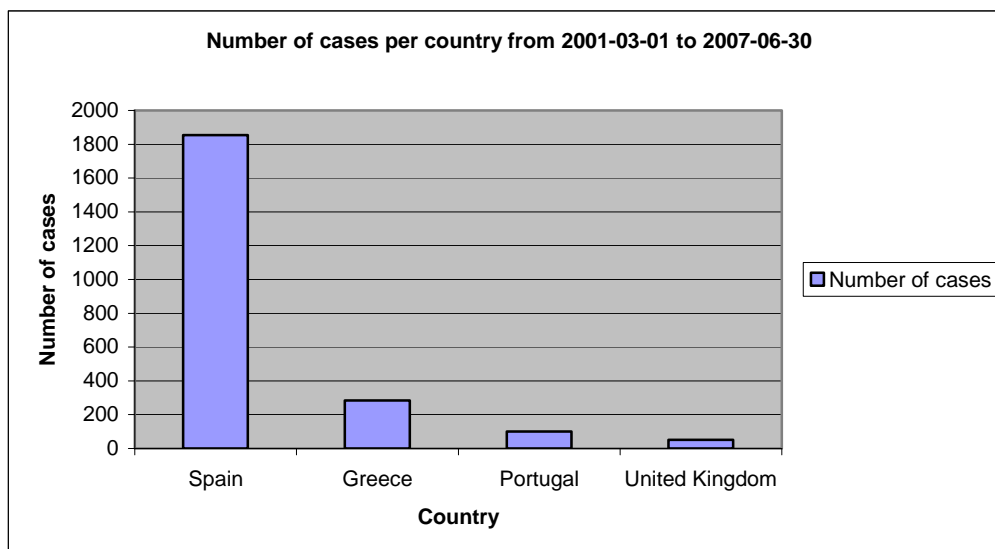
The EU Commission's Analysis

For the most part, the marketing and selling of holiday clubs etc. and timeshares to Swedish consumers take place in other countries while the so-called resellers direct their marketing and sales to Swedes in Sweden. The greatest number of timeshare facilities is in Spain, where 35 percent of all timeshare facilities in Europe are found according to a 2005 report.²⁷ Furthermore, the Commission states that of the 327 facilities in Spain some 140 of them are in the Canary Islands.²⁸

ECC Sweden's Statistics²⁹

ECC Sweden's case statistics show a geographic distribution of where the entrepreneurs who cause consumers' problems run their enterprises according to figure 9.

Figure 9. Geographical division of where consumer problems occur



²⁶ COM (2007) 303 final, SEC (2007) 744, Annex III.

²⁷ Consultation Paper -Review of the timeshare directive (94/47/EC), p. 8

²⁸ COM (2007) 303 final, SEC (2007) 744, p.71

²⁹ The statistics are gathered from ECC Sweden's case statistics – DiaEU.

Economy

Employees and Turnover

ECC Sweden's understanding is that a timeshare is commonly more expensive than a membership in a holiday club or the like. The timeshare and holiday club market is important for the tourism industry as it generates employment and increases the economic growth in the region. About 19,300 people are estimated to be employed in the timeshare or holiday club industry in Spain alone. Based on the Spanish statistics, the number is estimated to be about 50,000 for the entire EU³⁰. The sales volume for the European timeshare and holiday club market was approx €2.3 billion in 2001³¹, which in nominal value is roughly equal to the Swedish Road Authorities allocation for road maintenance, bureaucracy and industry tasks in 2007.

Regulations on the Market

Applicable Legislation

The application legislation in EU member states is based on directive 94/47/EC. As previously mentioned, the applicable EU directive's intention is based on a contract having been entered into for at least three years, that an established total price has been agreed to by contract, that a seller directly or indirectly has relinquished, transferred or committed to transferring a proprietary right or other right to the use of immovable property during an established or discernible period of time of the year which cannot be less than one week.

Furthermore, the seller is required to give the consumer written information about:

- the seller's name and address,
- the period of cancellation is at least 10 calendar days from the commencement of the contract.

The contract must furthermore indicate *inter alia*:

- any costs incurred if the consumer cancels the purchase

³⁰ Consultation Paper -Review of the timeshare directive (94/47/EC), p. 4

³¹ Consultation Paper -Review of the timeshare directive (94/47/EC), p. 4

- the principles for the administration and management of the property, and
- the conditions for cancelling the purchase.

The regulations regarding contracts for timeshares are however not only regulated by directive 94/47/EC but are also effected by the directive on distance contracts, the directive on home sales and the directive on unreasonable business practices.³²

The latter pertains to timeshare contracts in as much as both this and the timeshare directive provide regulations against aggressive selling methods and misleading information.³³ However, the two directives apply to different situations and therefore complement each other in some parts as well as overlap each other in others. The timeshare directive affects the contract-related relation between the consumer and the entrepreneur while the directive for unreasonable business practices applies to the marketing methods. In the case an entrepreneur does not for example fulfil certain informational requirement the timeshare directive makes, the validity of the contract can be affected. On the other hand, the validity of the timeshare contract can not be questioned based on the directive on unreasonable business practices instead the directive can be used for example in a fine injunction by the authorised consumer authority.³⁴

Certainly both the directive on distance contracts and the directive on home sales contain exceptions for rights associated to immovable property. In spite of this, these directives can come into question in a timeshare contract. The directive on distance contracts can come into question in the case that the timeshare contract is entered into at a distance, e.g. via internet or the like. Only in such circumstances can the directive on distance contracts come into question, which means that in traditional timesharing this occurs very seldom, but it is possible to apply the regulation for example toward the aforementioned resellers and legal aid companies, which gladly contact the consumer by telephone. The directive on home sales on the other hand does not only regulate sales in the consumer's home but also sales during an excursion arranged by the entrepreneur outside the entrepreneur's ordinary sales location. This means that a timeshare contract that has

³² Direktiv 97/7/EC, Direktiv 85/577/EC och Direktiv 2005/29/EC

³³ Note on the review of the Timeshare directive, IP/A/IMCO/FWC/2007-10, PE 393.507, p.2

³⁴ Note on the review of the Timeshare directive, IP/A/IMCO/FWC/2007-10, PE 393.507, p.2-3

been entered into under a similar excursion can be subject to the regulations of the home sales directive. This follows in part from the directive itself and has been arrived at by a decision of the EC court.³⁵

Proposal for a New Timeshare Directive

As mentioned, the EU Commission decided in 2006 to do an overhaul of the consumer regulation in order to strengthen the consumer's position on the common internal market. For that reason, a Green Book came out which proposed various solutions in order to improve the consumers' situation by creating a set of stipulations for contracts between consumers and entrepreneurs in a uniform manner for all consumer markets, a horizontal instrument. This set of stipulations shall later be complemented with specific instruments for specific fields or markets. The Green Book expressly mentions that the timeshare directive can be an instrument for a regulation of a specific market. Since the market for timeshares and holiday clubs is in great need of change and new regulations, the regulation is undertaken prior to the horizontal instrument being ready.³⁶

In June 2007, the EU commission consequently adopted a proposal for a new timeshare directive, COM (2007) 303, which also encompasses holiday clubs and the like and calls these "long-term holiday products". The proposal is now with the European parliament for deliberation. A decision will be made in April 2008.

According to Article 2b of the proposal for a new timeshare directive, "long-term holiday products" entail a contract which applies to more than one year and which against payment of money entitles the consumer to discounts and other benefits at a residence, either separate from or in connection with trips and other services.

During the ECC Sweden workshop on holiday clubs in November 2007, it was indicated that six out of ten countries felt the proposal to a new timeshare directive, as formulated in June 2007, will change the way the offices process their cases. However, two countries could not express an opinion in the matter and two

³⁵ C-423/97, Travel-Vac S.L. v. Manuel José Antelm Sanchís

³⁶ The Commission's Green Paper on the Review of the Consumer Aquis, COM 2006(744), p.9

countries felt that the case work would not change but that the consumers' situation on the market will on the other hand.

Other Regulations for the Market

Through self-regulation, among other things, the problem on the market can be solved without laws or other coercive regulations. The timeshare industry has attempted self-regulation through such things as the Organisation for Timeshare in Europe (OTE). OTE has produced an ethical code which shall be observed by all member companies. This is a form of self-regulation where the rules of the market are stated. In 2005, the OTE looked over the code and implemented regulations in agreement with the current EC legislation and in certain cases go above and beyond the legal stipulations. For example, the ethical code requires that a timeshare not be marketed as an investment opportunity. Moreover, it is required that the consumer be entitled to buyer's remorse even in contracts for holiday clubs. Furthermore, it is required that information be provided regarding the legal responsibility of each entrepreneur entering into a timeshare contract (marketers, salesmen, administrators, property owners etc.).

In the processing of its cases, ECC Sweden has seen examples of the OTE now and then having difficulty in getting member companies to follow the code.

The Activities of ECC Sweden

Informational Activities

The target group for all information from ECC Sweden is above all consumers. ECC Sweden feels that the most important channels when it comes to timeshares have been the media, via press releases or through other contacts with journalists.

The foremost channel for the spreading of information, such as the timeshare folder, to the consumers is normally the country's consumer counsellor found in about 250 municipalities. ECC Sweden and the Swedish Consumer Agency have worked in cooperation with them. In the field of timeshare and holiday clubs, travel agents have been the greatest channel of printed material as shown below.

ECC Sweden's Informational Material

Timeshare folder

The first folder about timeshares was printed as early as spring 2001 and sent to the consumer counsellor. The folder was reprinted in 2002 and appended with text regarding selling ones own timeshare. The circulation then was relatively small.

In 2003, ECC Sweden contacted the travel industry to distribute the folder directly to consumers at their holiday locations. The matter was discussed at a meeting in which the Swedish Police Services and the International prosecutor took part. As a result, in 2004 a revised variant with a somewhat shortened text and new pictures was distributed via the travel agents directly with 35,000 copies in the Canary Islands. This variant has been used since 2005 in the ECC office in Luxemburg, with text in both French and German. In 2005 and 2006, an additional 155,000 copies were distributed via travel agents. In 2005, the Spanish tourist office was also contacted as well as the embassy in Stockholm who was interested in the folder. In total, nearly 200,000 copies have been distributed.

In the autumn of 2007, it was decided that instead of a timeshare folder a lottery scratch ticket be printed with information about holiday clubs. About 30,000 copies of the lottery scratch ticket have also been distributed to travel agents and have been handed out at Karlstad airport to travellers going to the Canary Islands. The intention was to use the sellers' own methods and thereby get consumers to recognise the sales situation when it occurs.

In 2001, an information sheet was also published at the request of a travel agent which has been of use to most agents in the folders which are available at the hotels.

Newspaper Inserts

ECC Sweden has on two occasions had inserts in *Råd och Rön* and on one occasion in *Aftonbladet*. These inserts have had articles with descriptions of the problems with timeshares and holiday clubs etc. The insert in *Aftonbladet* was printed at the end of 2002 in a print run of 500,000 copies. The front page showed timeshares and the insert contained such an article. The inserts in *Råd och Rön* were printed in 2004 and 2005 and sent to all subscribers. Furthermore, an extra edition was

distributed to Local Consumer advisors.

ECC Sweden's Web Site

News of various sorts is published on the ECC Sweden website, www.konsumenteuropa.se. It often covers new information of interest to consumers or a description of a completed task.

The web site is itself also a platform for information about various fields, among them timeshares and holiday clubs and the like. Information about timeshare has developed over the years with more information with which ECC Sweden's knowledge of consumer problems, the market etc. has increased. Folders and other informational materials are available as pdf files and may be downloaded for consumers and others. In 2002, the pdf file about timeshares was the most downloaded file.

Media Activities

Press Releases etc.

ECC Sweden has on an almost yearly basis published press releases about timeshares and holiday clubs, either in connection with police reports, with the dissemination of folders or in connection with proposals for new legislation. The press releases are published on ECC Sweden's and the Swedish Consumer Agency's web pages and are sent to the country's largest newspapers and press offices.

In the spring of 2007, the European Commission selected 8 ECC offices, among them ECC Sweden, to participate in the commission's common press campaign pertaining to the proposal for a new directive. The campaign entailed commissioner Kuneva giving a speech in Brussels on 7 July and the ECC offices at the same holding press conferences in cooperation with the European Commission's representatives in each country.

Direct Media Contacts

In addition to press releases, ECC Sweden also contacts the media directly in order to put forth information or a warning. One example of this is a contact which was

made with TV 4 in 2002 which led to *Kalla Fakta* episode about the timeshare/holiday club market. The latest example of this was when ECC Sweden in the autumn of 2007 sent the new informational material (a lottery scratch ticket) to the RixFM radio station. The purpose was to inform program hosts and listeners about the dangers of holiday clubs and the like in the Canary Islands since the programme for a few days in December 2007 was to be aired from the Canary Islands.

Contacts with Local Consumer advisors and Other Information Relays

Contacts with Local Consumer advisors take place in three ways: through the everyday task of consulting, through courses arranged by the Swedish Consumer Agency as well as through other meetings set up on the initiative of ECC Sweden or the Local Consumer advisors. ECC Sweden has on several such occasions informed counsellors about the consumers' problems in the market in question.

ECC Sweden has on several occasions, through arrangements made by Local Consumer advisors, EU information, Euro Info Point and others of several occasions informed the public about consumer problems in the market in question. One example was the airing on SVT 24 on EU Day 2005 where ECC Sweden talked about its operations, among them about consumer problems on the timeshare market.

ECC Sweden's Work in Relation to the Legislative Assemblies

To the EU Commission

At the commission's meetings with ECC Net, the ECC offices on several occasions has brought up and pointed out the great consumer problems in the area and pointed out the need for a strengthened consumer protection. In 2002, ECC Sweden produced a report which was sent to the Commission with the aim giving information about the consumers' situation on the timeshare and holiday club market. The report points out a number of measures which could improve consumer protection, among them a revision of the directive and more effective scrutiny. In the same year, the entire ECC net produced a corresponding report which also pointed out the need for such measures as well as an expanded collaboration with

consumers' agencies, the police and other parties. It was also pointed out at the time that the greatest problem with cross-border trade, at that point, was with timeshares and similar products. ECC Sweden has also continually reported the number of cases and case developments to the Commission, both via replying to questions posed to the entire ECC network but also in the annual report.

As an essential part of the work in revision the timeshare directive, in July 2006 the commission arranged a workshop for various interested parties. The purpose was to identify which adjustments in the legislation are necessary to improve the market both for consumers and the industry. As representative of the ECC Net, the Commission invited ECC Sweden and ECC Spain to report on their experiences of consumer problems on the market.

In 2006, ECC Sweden furthermore replied to two consultations at the Commission. ECC Sweden has during these consultations pointed out that the regulations which apply to timeshares shall also be made applicable to timeshare-like products, holiday clubs and resellers etc. The categories should be regulated by the same legislative devices since they are directed toward the same consumer group and compete with each other on the same market. ECC Sweden feels that a new directive should contain both pre- and post-contractually regulations, stipulations about a European registration system for all those involved as well as contain regulation which made it so that all those involved are jointly and severally in strict liability toward the consumers.

Based on these starting points, ECC Sweden recommended the following:

- That the definition of timeshare on the one hand and timeshare-like products, holiday clubs and the like should be very wide in order to make the new set of regulations as comprehensive as possible for the new product concepts,
- That guarantees or insurance rules in the case of the entrepreneurs insolvency should be tied into the new legislation with the purpose of increasing consumer security,
- That there should be an informational obligation as well as the contract should be deemed invalid in case such obligation is not met,
- That the buyer's remorse period should be 4 weeks and unless the right of

cancellation is stated in the contract then the contract is invalid,

- That there should be a requirement that the same language used in the contract shall also be able to be used in exercising ones right of cancellation or when making complaints,
- That a ban against advance payment shall also encompass resellers.

ECC Sweden furthermore advocates a full harmonisation with the aim of strengthening consumer protect in the EU as a whole.

Referrals to the Swedish Government

Three referrals from the Government Offices have been answered in the years 2006 and 2007. The latest was in June 2007 where ECC Sweden and other interest parties were asked to give their opinions about the Commission's proposals for a new timeshare directive.

The evaluations and proposals in the three referrals from ECC Sweden include:

- That ECC Sweden supports the Commission's proposal that the new timeshare directive shall apply to all involved. ECC Sweden has therefore also pointed out to the Swedish government that timeshares, timeshare-like products, holiday clubs etc. should be regulated by one and the same directive. This is because they all are active on the same market and they sell and market themselves toward the same consumer group.
- That ECC Sweden advocates a great flexibility in the new directive and that a full harmonisation be done.
- The proposal for a new timeshare directive is good in terms of the proposals language requirement for the contract, an informational obligation for the entrepreneur, indicating what cost can be incurred by the consumer when exercising a right of cancellation and the period of buyer's remorse is extended to 14 days. Even so, Konsument Europe will gladly like to see the period of remorse extended additionally to 4 weeks and that the informational obligation for the entrepreneur loses its consumer protective purpose if the formulation of Article 4.2 remains in the proposal. It states that the informational obligation applies to entrepreneurs "unless the parties explicitly agree otherwise".

- That ECC Sweden feels that the proposal's appendix to the current regulations regarding a ban on advance payment to the seller also to apply to advance payment to a third party is good.
- That the proposal's requirement that the member states establish effective dispute resolution bodies is good. ECC Sweden has long advocated this as an important part of the work in strengthening consumer confidence on the internal market.

To Swedish EU Parliamentarians and the EU Parliament

The report which ECC Sweden submitted to the European Commission was also sent to Swedish European parliamentarians with the aim of informing them as well about consumer's problems on the market. ECC Sweden has also notified EU Parliamentarians about their referral statements.

In 2007, ECC Sweden furthermore, at the request of the Committee for the internal market and consumer protection, submitted examples of cases where Swedish consumers have had problems with timeshares, holiday clubs and the like. The purpose as far as the committee was concerned was to increase the awareness and knowledge about the problems in the area.

ECC Sweden's Work Directly Aimed at Individual Consumers

A considerable feature of ECC Sweden's operation is information and counselling to individual consumers. Over the years some 2,500 consumers have turned to ECC Sweden with questions and problems pertaining to timeshares, holiday clubs etc. The emphasis of the counselling has been placed on informing the consumers about how economic losses can be avoided as well as elucidating their legal position in various situations.

Other Work

ECC Sweden's work has also included dialogue with the international prosecution agency as well as collaboration with the Swedish Police Service. The dialogue and collaboration with these parties has been taken up for the reason that ECC Sweden in connection with its case handling has noticed criminal activity, primarily frauds

of various kinds. A list of companies (timeshares, holiday clubs etc.) that have been reported to ECC Sweden is published on ECC Sweden's web site. Both purely timeshare companies and holiday clubs, resellers and so-called legal aid companies have been reported to the police.

ECC Sweden has, in addition to the cooperation within the ECC Net, also cooperated with consumer agencies in other countries. On two occasions, discussions have been held with the Office of Fair Trading, UK. Furthermore, the office has participated in a Nordic seminar pertaining to the proposal for a new directive.

The Effects of the Work

The Effects of the Informational Work

The Effects of ECC Sweden's Media Activity

ECC Sweden has since 2001 issued 8 press releases regarding timeshares/holiday clubs. In total, the mass media had dealt with ECC Sweden's operation in the area in about 180 newspaper articles, 25 radio features and about 15 TV features over the years. A part of these features are put out on the initiative of journalists but the majority are direct effects of the ECC office's press releases. One effect of ECC Sweden's direct contact with the media is the *Kalla Fakta* programme on TV 4, which showed how timeshare-companies cheat consumers, which had 500,000 viewers.

In a survey of ECC Sweden's case handlers, it was shown that most of them have noticed a certain effect in the number of cases after a feature in the media. The effect remains in that a greater number of people contact ECC Sweden on the day following a newspaper article or radio broadcast etc.

The Effects of ECC Sweden's Informational Material

Case handlers feel that the information folders regarding timeshares and holiday clubs which have been distributed have had an effect with the consumers. One example of the effect is that presently it happens that consumers contact ECC

Sweden directly from their holiday locations, which can be a sign that they have received and read the information in the folder.

At the same time it can be stated that the insert in *Aftonbladet* did not result in any increase at all in the number of contacts from consumers immediately following publication in November 2002.

Further evaluation of the effects of ECC Sweden's informational material has not been possible within the framework of this study.

The EU Commission's Analysis

According to the EU Commission, information campaigns have contributed to reducing the number of cases pertaining to the timeshare and holiday club market.³⁷ OTE says the same in its reply to the EU Commission's consultation in June 2006. In the opinion of the OTE, the steadily declining number of complaints primarily is a result of a combination of the arrival of the timeshare directive and consumer-promotional measures such as information to consumers, self-regulatory measures from the industry and increased means to launch complaints.³⁸

ECC Sweden's Informational Efforts Directed to the Media – A Simple Statistical Evaluation

As previously stated, ECC Sweden has since 2001 issued 8 press releases regarding timeshares/holiday clubs. The direct effect of this has been a rather large breakthrough in the media with a considerable number of newspaper articles, TV and radio features. This means that newspapers, TV and radio have worked as a medium for ECC Sweden's message to consumers. Whether or not the message reaches the consumers is effected by how it is formulated in the media as well as how the target-group-customised media carries the message forward. It can be stated that the above description of the consumer group and its media habits corresponds very well with the type of media which carried ECC Sweden's information.

³⁷ Press Fiche - Sweden, p.2 and COM (2007) 303 final, SEC (2007) 744 p.51.

This indicates that the message with great likelihood reached out to consumers belonging to the category in question regarding the consumption of timeshares, holiday clubs etc. A follow-up question is then: what will be the effects of it?

According to ECC Sweden's case handler's experiences, there is an increased influx of case during the days after information about timeshares and holiday clubs was presented in the media. In order to cover this connection, a number of received figures per month have been correlated with newspaper articles, articles on its web page, when contacts were made with Local Consumer advisors as well as TV and radio features. The result of this correlational analysis is shown in the first row of Table 1 below. The other row relates the corresponding values where the cases received per month correlates with the number of occurrences in the media during the previous time period.

Table 1. Correlational analysis between ECC Sweden activities, media features of various kinds as well as the number of cases received by ECC Sweden per month.

	Newspaper articles	Appearances in TV	Radio appearances	Own website	Contacts with local consumer advisers	Total number of cases
Total number of cases	0,52	0,25	0,32	0,11	0,25	1
Total number of cases one month later	0,08	0,44	0,02	0,04	0,13	-

Hardly surprising, the number of cases streaming in to ECC Sweden consequently varies in proportion with media features, which also varies in proportion with ECC Sweden communicating to the media. The question can arise about whether the communication via the media results in any lasting effect. Those statistical analyses which were undertaken within the framework of this study were not able to demonstrate any statistically significant connection between features in the media and the development of the number of cases which come in to ECC Sweden.

This does not mean however that there cannot be a connection. Firstly, it can be noted that the quantity of inquiry received have shown a declining trend since the

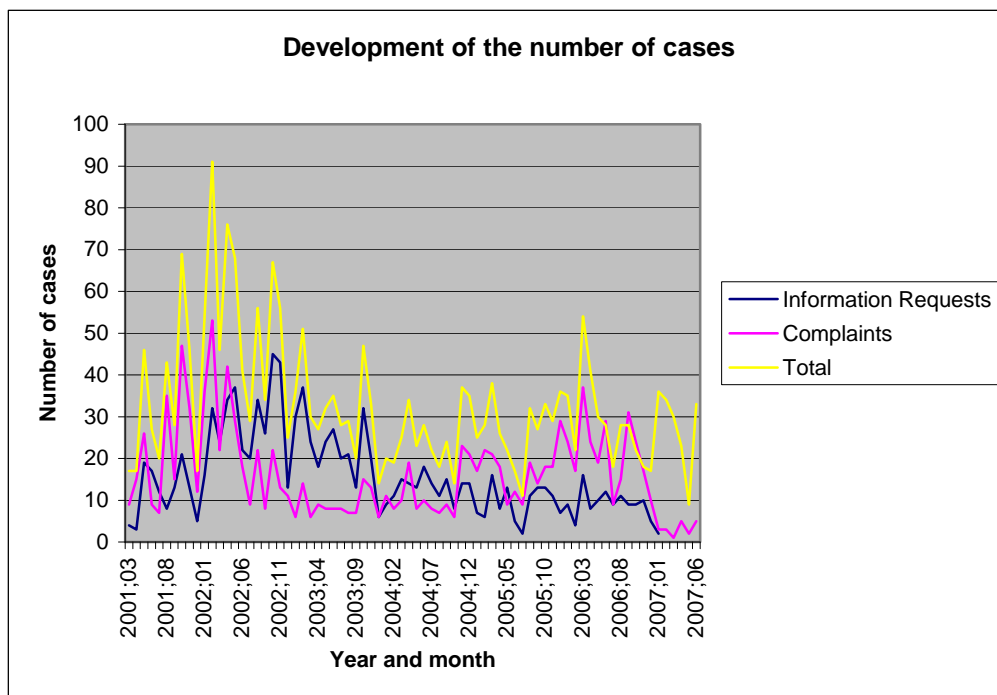
³⁸ COM (2007) 303 final, SEC (2007) 744, p.31

first half of 2003, according to Figure 10 below. This can be interpreted as the degree of awareness having increased among consumers.

Not counting the first half of 2007, a certain increase in the number of complaints can at the same time be seen since the beginning of 2004. As mentioned previously, since the beginning of 2006 timeshares and holiday clubs have been registered separately in the statistics. During the period since then, the complaints have overwhelmingly pertained to holiday clubs etc.

It can be interpreted as ECC Sweden's information not having reached the consumers to the same extent when it comes to this portion of the market. The degree of awareness has not improved to the corresponding degree, which resulted in an increase in complaints with a predominant proportion related to those which are not traditional timeshares.

Figure 10. The development of the number of inquiries and complaints received by ECC Sweden pertaining to timeshares, holiday clubs and alike



The Effects of the Work toward the European Commission and the Legislator

After having replies to a total of 3 referrals to the Swedish government, 2 consultations with the European Commission as well as having notified Swedish European parliamentarians about the consumer problems and after continually having reported the development of cases to the Commission, it can be stated the ECC Sweden is taking measures toward legislation of various kinds. The exact result of the effect of the efforts is not sure to say, but it can in the context be noted that the Commission has since 2006 worked on a modification of the current legislation.

Because of this, the overhaul of the consumer regulations which is now underway at the EU level should be noted. As mentioned above, the Commission has suggested in a Green Book a modification of 8 consumer directives. Also as mentioned above, the European Commission has made the evaluation that the timeshare area needed a more rapid change, which is why the directive has been brought up and as early as June 2007 a proposal was put forth for a new timeshare directive. The proposal contains some changes in relation to the old directive which are given below.

Namely:

- The field of application is expanded
- The definition of timeshares is modified
- Holiday clubs and the like are included and designated “long-term holiday products”
- The proposal also encompasses resellers and exchange companies.
- More exhaustive requirements for information to consumers
- The consumer’s right of buyer’s remorse becomes longer
- The ban on advance payment to the seller is expanded to apply also to advance payment to a third party
- Regulation with regard to the minimum time for yearly use as specified by the contract is revised.

Moreover, the Commission recommends that the proposal for the new directive

become fully harmonised, which differs from the minimum directive currently in place. One advantage of a full harmonisation is that exactly the same rules will apply in all member states. One consequence is also that no member state may implement stricter regulations than those stated in the directive.

The proposal is in agreement with the viewpoint which ECC Sweden put forth, however with one exception. ECC Sweden has recommended a longer period of buyer's remorse than what is currently recommended by the Commission.

The Effects of ECC Sweden's Work Directly Aimed at Individual Consumers

ECC Sweden's counsel to individual consumers has resulted in:

- Many consumers have been able to avoid unnecessary economic losses. It can be stated that the companies on the market can seem threatening, but no company has gone forth to a judicial process when consumers have followed ECC Sweden's advice and have refused to pay more than a down payment.
- Many consumers feel strengthened after their judicial position has been elucidated through ECC Sweden's advice.

Summary Discussion and Analysis

During the 1990's upon the initiative of the European Commission, a network of consumer affairs offices (ECC offices) were established and charged with the task of helping consumers wanting to make purchases in countries other than their own in the community. Ever since 2000, more and more countries have joined the ECC network. This provided the means to catch and report in a structured manner various cross-border problems to the Commission. As early as in 2002, the problems with timeshares and holiday clubs stood out so much that the network pointed out the need for a strengthening of consumer protection in a report and during meetings.

As far as ECC Sweden was concerned, during the first years about 30 percent of consumer contacts pertained to problems surrounding timeshares, holiday clubs etc.

During the follow years, it seems like the problems have somewhat decreased at that same time a shifting of the problems with timeshares to problems with holiday clubs etc. can be seen. Such a development in Europe has been confirmed by the Commission.

ECC Sweden has through its direct counselling in the area been able to help a great number of individual consumers. One important part of the enterprise has been about preventive efforts, i.e. in various ways working to increase awareness among the public about the current market. This has been done via press releases and other contacts with the media as well as through informational materials. One addition manner has been with presentations and shows for the public.

To try to affect and improve consumer protect in the field stood out as necessary at an early stage. That is why ECC Sweden in several different ways has pointed out problems of consumers and the need for stronger legislation to the European Commission, the Swedish Government and the European Parliament.

The Swedish Consumer Agency's compiled evaluation is that the operation which ECC Sweden undertook in this area has in many parts been successful. Selecting various collaborative tools to improve the consumer's situation has shown to be effective. There is a reason to assume that the contacts, from the entire ECC Net, with the European Commission have hastened legislative measures. The informational work, like the direct counselling, has likely affected the level of awareness in the public regarding timeshares. Before ECC Sweden opened, the media's reporting on the area was largely non-existent. In this context it can be noted that the awareness about holiday clubs etc. seems to be lower.

The Development on the Market

The currently regulation portion of the market, timeshares, had a great expansion during the 1970's and 1980's. The rate of growth cooled off during the 1990's. From 1994 to 1996, a certain calm arose on the market and growth kept to a continued low level. According to the European Commission, this depended on the timeshare directive which came out in 1994 and which yields a certain self-adjustment on the market. From 1996, the growth has halted then to become

negative in Europe, while on the other hand continued to grow in other parts of the world.

The Commission points out that the great changes which took place since 1994 by and large depended on the emergence of new holiday products, which resemble traditional timeshare, but fall outside the purview of the legislation. Those new products resemble timeshares both in terms of marketing and sales methods.

According to the timeshare industry, the contraction on the market depends on a deteriorating standard of the residence, increased yearly expenses as well as media scrutiny which to a great extent only portrays the companies as being frauds. The timeshare industry furthermore states that fraudulent holiday clubs and the like are given a competitive advantage as they both fall outside the purview of the legislation and the scrutiny of the authorities, but at the same time direct their operations towards the same consumer group.

As stated by the timeshare industry, a contributing explanation to the stagnation on the market is the negative picture painted by the media scrutiny. It has especially generated badwill associated with the concept of timeshares. It is also credible that badwill generated by the media scrutiny is reinforced by the informational work of the kind which ECC Sweden and the sister offices in the EU have undertaken. One estimation is that the badwill generated around the idea of timesharing has resulted in a greater caution among consumers when it comes to just about everything called timeshare. All in all it has yielded a reduced demand, which in turn has resulted in diminished revenues for the timeshare industry. This inevitably leads to consequences for the companies' returns as well as means for maintenance and new investments.

Consumers' Conditions, Consumption Patterns

Both the EU Commissions compilations and the picture ECC Sweden has indicate that overwhelmingly it is consumers in the upper middle ages who entered into contracts pertaining to timeshares or holiday clubs. It is possible that consumers of timeshare as a rule are somewhat older than those who buy holiday club memberships. The subjects in question are almost exclusively women and men in a

coupled relationship who are relatively well-established in terms of profession and income. It is also apparent that they enter into contracts for timeshares or holiday club memberships in connection with charter trips. The Commission's analysis indicated that the problems are mostly in Spain, which also is indicated in ECC Sweden's statistic.

Furthermore it has been shown that the age group's consumption of media to a large extent is characterised by TV watching in the evenings between 7:00 pm and 10:00 pm, reading of the daily papers, listening to Swedish National Radio and in an ever greater extent the use of the internet.

Regardless of whether it is about timeshares or holiday club memberships, it can be stated that the sales methods applied as a rule are very aggressive. One consequence of this is that consumers to a relatively great extent enter into contract which a year later they find very problematic.

The consumers' circumstances in the regulated portion of the market have improved following the timeshare directive implementation in 1994. Those problems which were noticed by the Nordic project group prior to the implementation have to a certain extent been limited. It is however still common that aggressive sales methods are applied as well as reselling is very difficult due to a virtually non-existent sublet market.

As described earlier, the number of cases pertaining to timeshares, holiday clubs etc. in Sweden reached a high in 2002 with more than 600 cases being received by ECC Sweden.

Sources

Consumers' Conditions

Consultation Paper - Review of the timeshare directive (94/47/EC), 1 June to 15 August 2006, EU-Commission,
http://ec.europa.eu/consumers/cons_int/safe_shop/timeshare/index_en.htm

EC Consumer Law Compendium – Comparative Analysis, Prof.Dr.Hans Schulte-Nölke in cooperation with Dr. Christian Twigg-Flesner and Dr. Martin Ebers,
http://ec.europa.eu/consumer_s/cons_int/safe_shop/acquis/comp_analysis_en.pdf

Commission Staff Working paper accompanying the Proposal for a Directive of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday products, resale and exchange. Impact Assessment, COM (2007) 303 final, SEC (2007) 744, European Commission, 2007.

Target group according to ECC Sweden's case handler, Annica Granlund, University of Växjö, 2007.

Press Fiche – Sweden, EU-Commission, 2007.

Timesharing, TemaNord, Report 1995:646.

The Companies' Situation

Consultation Paper - Review of the timeshare directive (94/47/EC), 1 June to 15 August 2006, EU-Commission,
http://ec.europa.eu/consumers/cons_int/safe_shop/timeshare/index_en.htm

Commission Staff Working paper accompanying the Proposal for a Directive of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday products, resale and exchange. Impact Assessment, COM (2007) 303 final, SEC (2007) 744, European Commission, 2007.

Target group according to ECC Sweden's case handler, Annica Granlund, University of Växjö, 2007.

Press Fiche – Sweden, EU-Commission, 2007.

Timeshare in Europe, Timeshare Consumers Association, 2005.

Regulations

European Parliament and the Council's directive 94/47/EC of 26 October 1994 regarding protection for buyers with respect to certain aspects in the contract for the right of usage of immovable property on a part-time basis.

The Consumer Protection Act (SFS 1997:218) for contracts regarding timeshared residence

The EU Commission's proposal to the European Parliament and the Council's directive regarding protection of the buyers with regard to certain aspects of timeshare, long-term holiday products, reselling and exchange

ECC Sweden's Work

DiaBas

DiaEU

Appendix 1. Theory Regarding the Effects of Communicative Efforts

This chapter described the theories within the area of communication which aims at building a framework for the evaluation of ECC Sweden's informational efforts regarding timeshares. The concept of communication is defined; the communication process is described in the form of illustrations of the fundamental theory and communication models, among them the Uses and Gratification Model. Strategies for effective communication are taken up through concepts such as planned communication and usability, primarily on the web.

What is communication?

Communication is a basic human activity, which is at the same time a complex process. Communication is about ideas, opinions, thoughts and feelings. It is a collaboration where the participants have expectations and attitudes that affect the message being exchanged. (Nilsson & Waldemarsson 1994 p. 8-10) The concept is usually defined in two different ways depending on the goal and purpose. There are two fundamental perspectives on communication. One is the "process school" which is about the transfer of messages from the sender to the recipient with a certain effect. The other is a "culture school" which is characterised by semiotics, i.e., an exchange of ideas where the message is interpreted and which leads to various types of understanding. (Falkheimer 2001 p.13) The concept of communication refers in its fundamental meaning to the fact that we in various ways both send messages and share something of ourselves. It is an interplay which is not static and which takes place both in the private sphere and in more formal contexts. (Nilsson & Waldemarsson 1994 p. 8-10) A relatively small part of everyday communication is based on relaying facts, which is the focus in the present study. It is about the communication that takes place in the transfer of information to a large target group (consumers et al) in a public context (ECC Sweden).

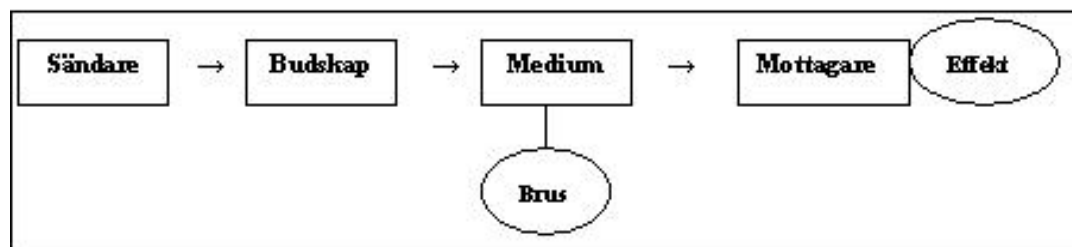
The Communication Process

Theories that explain the communication process can often be demonstrated through simpler communication models. The process entails a quantity of various parts, which are deemed necessary in order for communication to take place, and most studies focus on one or some of these parts, seldom altogether. The parts consist mainly of source, transmitter, purpose, channel/medium, message, receiver, feedback, context, medium, codes, conventions, forms of expression and interpretations or effects. (Falkheimer 2001, p 35.) Additionally, one part which should be taken into account in all communication research is “noise” which Fiske described as “everything added to the signal between the sender and the receiver and which is not intended by the source” (Fiske 1990 p.19). It can be everything from sparks in a telephone line to an uncomfortable chair at a lecture but is always characterised in that it distorts the intentions of the sender. (ibid. p. 20)

A Communicative Base Model

One of the best-known communication models was developed by Shannon & Weaver at the end of the 1940's and had its origin in a mathematical theory, which aimed to develop an optimal transmission system for telephony. The theory made it possible to work out a technique for sending a maximum amount of information through a given channel and in such a way to use the communication channel as effectively as possible. The focus was on the technical transportation of a signal through a channel to a receiver, but Shannon & Weaver claimed that their model was valid for all communication. (ibid. p.42)

Figure B.1.1. Base model in its fundamental version. (Larsson 2001 p. 39)



The model presents communication like a single, linear process and the individual units have become obvious concepts in all theory formation in the field. (Larsson 2001) Its simplicity has drawn many followers who based on the base model have

developed more complicated and modified models. (Fiske 1990, p. 17). Lasswell's model or formula which has especially been used in studies within mass communications is a verbalisation of Shannon & Weaver's original model:

“Who says what through which channel to whom with what effect?” (ibid. p.48)

The formula poses the question about effect rather than meaning, which suggests and observable and measurable change on the receiver's side which has been brought about by identifiable elements in the process. One question adapted to this study's analysis of the formula above could be applied like this:

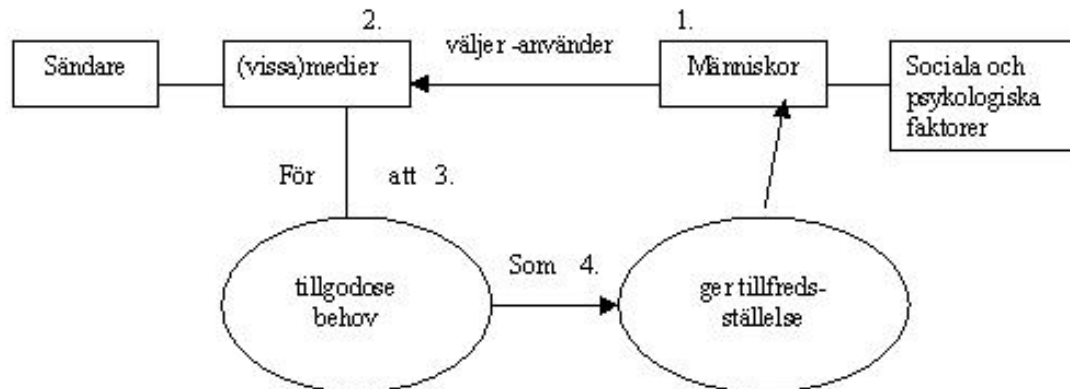
ECC Sweden provides information via its web page and other media to consumers and other interested parties who think/feel and thereby react in a certain way.

The simple, linear base model is a typical illustration of the “process school” and corresponds to what is called *one-way* communication within communication theory. In an organisation, one talks in this case *to* the audience while one with an opposing interaction perspective, *two-way communication*, speaks *with* an audience. (Larsson 2001, p. 38) Larsson's opinion is that one-way and two-way communications are not irreconcilable activities rather that it is sometimes appropriate to use one or the other method and that they are also used in parallel. The linear models however still dominate in the scheduled communications of today for both practical and economic reasons but also by tradition, in spite of being aware that the model has its weaknesses and limitations. No theory and model image which places the entire communicative power with the receiver exists, but the theory of Uses and Gratification leans in that direction. (ibid. p.39)

A Reaction Model for ECC Sweden's Communicative Efforts

When informational efforts aim to use the information which is conveyed, a receiver-oriented theory and model is relevant. One such model is the Uses and Gratification model, where important knowledge about how people function toward media can be gathered.

Figure B.I.2 Uses and Gratification Model (Larsson 2001, p. 43)



Theory is based in the idea that people have certain needs which are satisfied through the use of certain media. Two assumptions are central to the model. The first one is about the user being active and choosing media freely in order to satisfy his need for information. This means that it is the user who decided if there is at all to be any communication. The other is about the result and effect of a certain use of media depending on the user's understanding of how important and useful the content in the medium is. (Larsson 2001 p. 42)

Planned Communication and the Evaluation of Effects

Effective planning is a vital role for every organisation who wants to achieve effective communication, both internally and externally. Planning is undertaken in various ways and within public organisation it was previously common to make long-term plans for up to five years. Since the world is changing so quickly this is no longer recommended. (ibid. p. 107-108) Organisations must be keen and flexible and it is more common and more important to try to get an image of how the world around looks and how it will change by means of monitoring and analysing the world around us. The world around us is an abstract concept but it contains quite simply the organisations various interested parties in the form of individual people in various groupings. (ibid. p. 84) The communication has greater chance of becoming effective if the planning is based on the needs of the interested parties rather than on those of the organisation.

The gauging of the effect of communication or information can be made with both qualitative and quantitative methods and are often placed in relation to those resources allocated to the task. Some basic criteria for gauging the effectiveness include comparing the results over times as well as will the organisations set goals and plans. (Eriksson 2005 p. 142-144) In order for the communication to be effective, it must also be coordinated. The management must be in agreement about the goal and on the way to reach it and clear plans in order to achieve the goal should be in place. A *Communication policy* can work like an internal reference with guidelines on how the work with communication shall be run in the organisation and what distribution of responsibilities apply, a *communication strategy* states the long-term procedure in order for the communication to contribute to achieving the organisation's overall goal and in a *communication plan* the goals and methods are defined for communication with selected target groups during a limited time period within a certain economic framework. (ibid. p. 152-153)

Usability on the Web

For organisations, the electronic and computerised technique is a fast and inexpensive way to create better professional contacts both internally and externally. It is an unbeatable addition to the channels for the dissemination of information and it removes barriers such as time and space. There is however a risk that the technology will become a status factor which creates a new elite inside and outside the organisations, which in turn contributes to disturbances in the communication. Those who do not adapt, or do not have access to the technology, will be shut off from the information. (Larsson 2001 p.259) An investigation has shown that one fourth of all Swedes have difficulty in reading informational text on the web. This can depend on them being unused to reading, having another mother tongue than Swedish or having some kind of functional handicap.

(www.anvandbart.se)

In addition to making the web site accessible for everyone, it is also important that it has a high degree of *usability*. A simple definition of usability is *usefulness* \times *user-friendliness*. It captures the two most important sides of usability, namely that the web site must be user friendly in its typography, navigation and speed and at the same time the user has a use for it. If the web site's content does not interest the

user there is no usability, regardless of how well designed the web site is. (Sundström 2005 p.13) There is even a standard for usability, ISO 9241-11 defined as: “the extent to which a specified user can use a product in order to achieve a specific goal, with purpose, efficiency and satisfaction in a given context” (ibid. p17)

Ever since the Swedish Agency for Public Management received that task from the government to develop the electronic administration, the 24-hour agency, a particular web profile has come forth, the so-called *24-hour web*. The profile means the web sites shall be designed in such a way which makes them accessible for information gathering and case processing for citizens and companies regardless of office hours and geographical location. (Swedish National Audit Office report, 2003:11 p 66) Particular demands are also made of *accessibility* which means that the web site shall be suited for users with functional handicaps, but also for other user with different technical means such as an old web browser or surfing by mobile telephone. The design, functions and text shall suit everyone. Particular guidelines shall be laid out which set a certain standard of accessibility - WCAG, *Web Content Accessibility Guidelines*. (See www.anvandbart.se/ab/wcag) By law, Swedish authorities must adhere to this standard by no later than 2010 (Sundström, 2005 p.345-348)

Appendix 2. ECC Sweden's Case handlers Over Time and Their Experiences

Figure B.2.1 Schematic figure of ECC Sweden's case handlers over time.

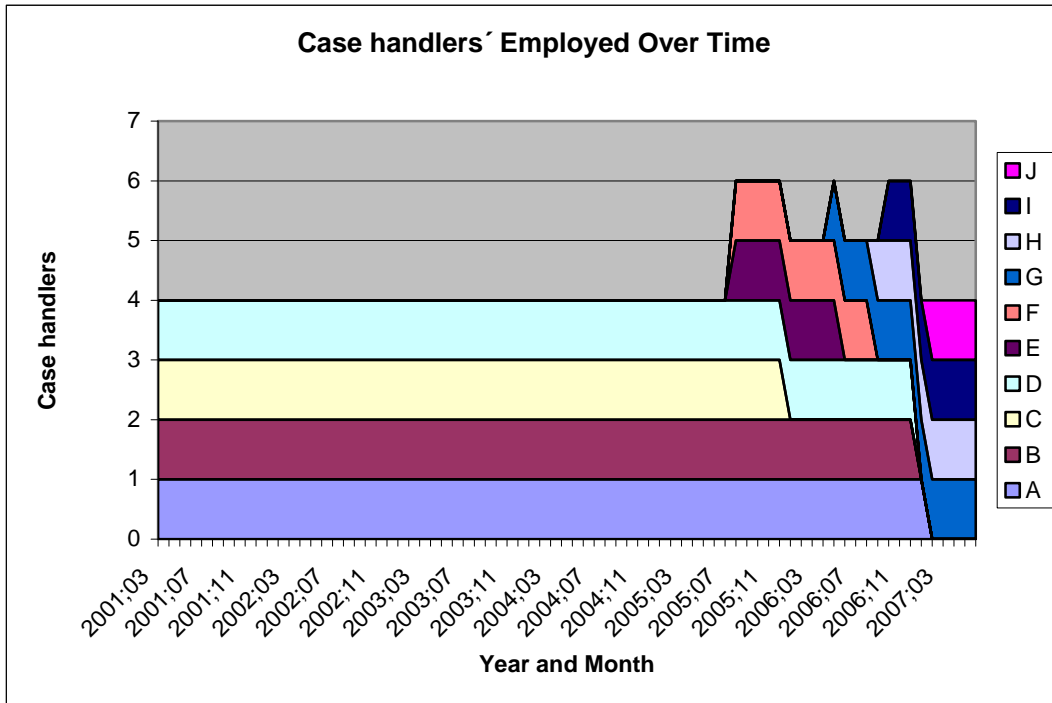
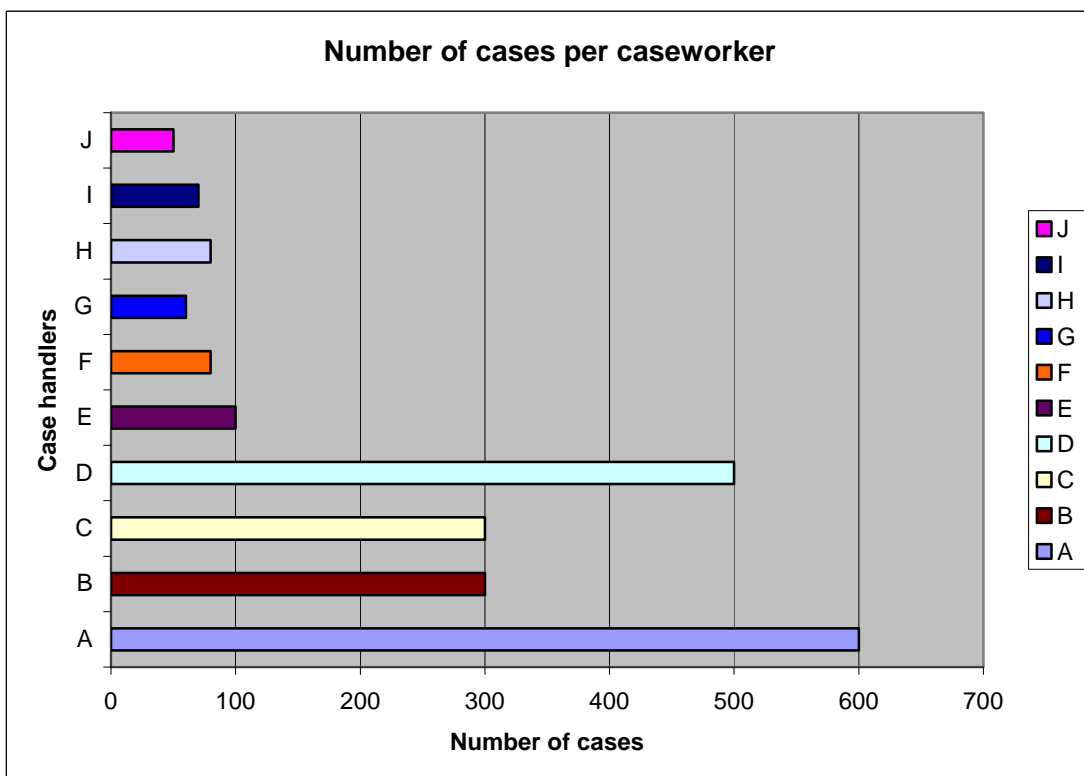


Figure B.2.2 Number of cases per case handler regarding timeshare, holiday clubs and alike.



Konsument Europa
Konsumentverket
Box 48
SE-651 02 Karlstad, Sweden
Telephone: +46 54 19 41 50
Webb address: www.konsumenteuropa.se
E-mail: info@konsumenteuropa.se