

# Rise and Fall of Timeshare in Europe

***“Timeshare is a criminal industry”*** Deputy Speaker, European Parliament

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## INTRODUCTION

### Rags to Rags in Two Generations ?

In 1946 Fred Pontin, Billy Butlin and the Warner brothers enlarged their holiday camps to cater for the pent up demand in the UK for holidays following the end of the Second World War.

Their operations formed the model for the package holiday industry which rapidly expanded as flying became cheaper and holidaymakers more daring – swapping Margate for Malaga and Cleethorpes for the Canaries.

It was into this mass market that holiday timeshare arrived in 1963, initially in Switzerland, but quickly taken up in the US and arrived back in Europe (Scotland) in 1975. Within 5 years timeshare resorts were appearing in all major holiday destinations throughout Europe with Spain leading the way.

Timeshare was a very different product from package holidays offered something that package holidays didn't – top quality, self-catering, accommodation. The concept was novel and not fully understood by consumers so initial sales were slow.

But by the early 1980's massive building programmes were under way in the Canaries and Costa del Sol which needed aggressive selling techniques, imported from the US, to fill them

By the mid 1980's, with sales rocketing, timeshare demonstrated it had the potential to be a major player in the holiday business. But the level of complaints of miss-selling had reached epidemic proportions resulting in an Office of Fair Trading investigation and report in 1990. This report formed the basis of the UK Timeshare Act 1992, but did little to stem the complaints.

A tougher law was introduced throughout Europe in 1998 which, whilst having only a marginal effect on complaints, did begin to reduce the number of sales being made. Consumers now had a cooling off period and a ban on the taking of an up-front payment.

The problems of the industry were further compounded by the increasing availability of rental property especially through the Internet, of equal or even better quality than timeshare but at similar or lower price.

By the mid 2000's the industry was beginning to turn pear shaped – the potential of a being leading light in the holiday world was now looking dim. Timeshare had failed to keep up with the competition and its anti-consumer practices were becoming apparent to all. The media had a field-day exposing consumer distress.

Reducing sales volumes coupled with an increasing number of owners "walking away" resulted in a decline in the number of timeshare owners in Europe.

This ownership decline accelerated until today only one third the number of owners are willingly paying their annual fees than in the peak year of 2000

If this decline continues for another 5 - 8 years there will be hardly any timeshare industry left in Europe !

**An industry that could have become a major force in the holiday sector is now on the edge of extinction.  
And the industry is doing nothing about it !**

=====

***This report identifies the reasons why the industry failed to achieve its full potential and points a finger at those responsible.***

## HOW TIMESHARE WORKS

### The starting point ....

.....*sharing the cost of owning a holiday apartment by only buying the time period that you want*

### Followed by .....

..... *the ability to exchange your time period with that of another owner somewhere else in the world .*

### Then it got complicated ..... !!!

### Fixed week system

In the beginning timeshare ownership was in a specific week. Each week was numbered from 1 to 52 starting in January so, for example, week 52 was generally Christmas or New Year week.

Owners liked this system because they knew exactly when their holidays would fall and those with young families could be sure of getting their accommodation during a school holiday period if they owned such a week.

Those owners who wanted a change, either of the time of year or geographic region were able to swap their own week for another week using one of the exchange companies .[see Page 5]

Consumers regarded the fixed week system as being in their interest. But traders thought otherwise because of the difficulty of selling the accommodation in the off-season weeks. A 70% sell-out was considered about as high as they could achieve, so a "floating" week system was progressively introduced.

### Floating week system

In the floating system weeks are put into three seasonal bands - High, Medium and Low.

This enabled sales people to persuade consumers that the purchase of a High season week would guarantee access in school holidays, despite "High" covering a wider time band than just the main school holiday periods. Worse still, purchasers of Low season weeks were told that it was easy to transfer into High season, which was almost entirely false.

A number of resorts also operate a floating apartment as well as a floating week system both of which are unpopular with owners because of the uncertainty of their period of use and the position of the apartment they will be allocated. Having been shown a nice sea view but end up overlooking the car park !

A floating week system often resulted in a 100% sell out. But the traders had yet another scheme to make them even more money - points clubs.

### Points Clubs

Points clubs did away with "weeks" ownership and replaced them with a booking "currency" – points.

Consumers were sold a number of points and led to believe that the number of points they bought guaranteed them access to the accommodation and time period that they wanted. The claim was that the more points they buy the greater the choice of places and time periods and number of weeks of use were available.

The points system soon became complicated with "half points for booking within 60 days of travel" and "banking points for next year" etc. - all variations which gave the appearance of being beneficial to owners but proved otherwise when tried out.

The number of points necessary to book a week of use of accommodation is generally a function of the size of the apartment and the time of year. But over time traders have made changes to the points allocation often resulting in owners having their points effectively devalued – forced to buy more points just to keep the availability they originally bought. There is a strong suspicion that at least one major points club sold more than 100% of the accommodation, relying on "no-shows" to ensure that owners were not turned away !

All floating systems (including points) enable the developer to skim off the best weeks for their own purposes. Owners complain that weeks they are offered – either for their own use or for banking with an exchange organisation – were in the less popular seasonal periods.

But, with the overall decline of "timeshare " two new products were invented.

### **Holiday Clubs**

Probably the ultimate evolution of timeshare and certainly the most pernicious.

When the rogues saw the ease with which timeshare sales people could extract large payments on the promise of "top quality holidays in the future" they set up "Holiday Clubs" with grandiose claims of holidays "anywhere in the world, at any time of year at massive discounts" Unfortunately for consumers the claims were very seldom true and almost all holiday clubs were completely bogus in failing to have a booking system or arrangements with holiday providers for discounts.

Holiday clubs have been the preserve of some of the major fraudsters in the industry. Although not providing any rights over tangible property (as most timeshare does) holiday clubs are now regulated by the European timeshare laws. [see Page 35]

### **Fractional Ownership and Destination Clubs (aka Private Residence Clubs)**

Fractional Ownership is essentially a "re-branding" of timeshare and first appeared, in the US in the early years of this century and gradually spread worldwide but take-up in Europe was, and still is, very sluggish.

In the absence of any agreed (or legal) definition fractional ownership appears to offer: -

- Ownership in holiday accommodation on a shared time basis (exactly like timeshare)
- In up-market accommodation (claimed to be superior to that of timeshare)
- For a fixed period of ownership - often 25 years or so
- With a number of weeks of use per year. - 6 weeks being a 1/8th fraction etc.
- With a "guarantee" that the assets (accommodation) will be sold at the end of the ownership period with the proceeds of sale being distributed according to the fractional share owned.

There is suspicion that some so called "fractional" schemes are yet another "investment" fraud. And a number of fractional schemes are now marketed on a "Buy to Let" basis which raises serious doubts about their financial viability – see "Investment Frauds [see Page 32] Evidenced by:

- Being promoted by known rogues in the timeshare industry
- With woolly worded contracts that any competent lawyer would advise against involvement
- The "investment" prices are many times greater than the fractional value of the original property as a whole - buyers are paying up to 8 times over the odds - which does not auger well for any capital refund, let alone profit, at the end of the ownership period.
- Promises of a distribution at the end of the ownership period are being made by off-shore or limited liability companies that may have disappeared before pay day or who arrange a private sale at an artificially low price to a friendly company.
- Some traders are offering loans at interest rates to make the purchase which would totally negate any potential profit that might accrue.

A typical example of a dodgy fractional scheme is “Dames de la Mer” (a trading name of Shakespeare Classic Line Ltd) who market fractional ownership in yachts in Turkey selling 206 x one week “fractions” for around £8,000 each. The boats originally cost c. £220,000 delivering a potential gross profit of £1.4 million to the seller. After 35 years the 206 owners are promised a share of the sale proceeds which are unlikely to reach £500 per owner.

The number of “honest” fractional resorts in the EU is in the low double digits. With most resorts containing very few units of accommodation - 5 to 20 is a common range - the number of fractional owners hardly exceeds 2,000.

A natural resale market has yet to evolve, and, with very low levels of sales it is unlikely to happen in the foreseeable future especially as developers are expected to continue to build to meet demand leaving existing owners with no outlet. Exactly what happened with timeshare

Destination Clubs (also called Private Residence Clubs) have much in common with Holiday Clubs where the “member” pays a capital sum for access to a number of resorts (generally of a high quality) worldwide. The member has no rights of ownership in any specific accommodation as they would do with timeshare or fractional ownership. But, unlike Holiday Clubs, all the Destination Clubs currently in Europe do appear to provide the service they promise.

Fractional Ownership and Destination Clubs are regulated by the current EU Timeshare law

## Timeshare “Ownership”.

Timeshare “ownership” is a misleading phrase. The main systems of “ownership” operating in Europe are:-

### 1. Trustee

In those countries where it is not permitted to have more than a limited number of owners of a property – typically the UK - the property (villa, apartment, apartment block etc) is placed into an independent Trust. When a timeshare sale is made the Trustee issues a “licence to use”, usually in the form of an “Ownership Certificate”, to the purchaser as evidence of their “ownership”

### 2. Escritura.

Where multiple ownership in a single property is permitted – typically Spain – the original property owner (usually the developer) registers the whole of the resort in their name in the local land registry. When a timeshare sale is made, a Notary registers the change of ownership of the specific apartment/week number and issues an Escritura to the purchaser certifying that the purchaser is now registered as the owner.

The trust system is also used in countries where multiple ownership is permitted because it is a more economic way of providing the purchaser with evidence of their purchase and to arrange transfers of ownership.

However, neither system provides absolute certainty of “ownership” because it is often overridden by the rights and obligations in the Purchase Contract. This contract may enable ownership to be repossessed by the developer in the event of the “owner” failing to pay the annual fees or for some other breach of the contract. Or, if the resort is run as a Members Club the Members can dissolve the Club allowing the property to revert back to the developer.

A number of traders in Spain have failed to arrange for the Notary to register a purchaser in the local registry so the “owner” has no Escritura – legally the owner has no “ownership” rights whatsoever !

The bond schemes – which are similar to a shareholding in the accommodation - run by *Holiday Property Bond* and *Hapimag* [see Page 8] utilise a similar accommodation booking system to the points schemes, but apparently without the consumer problems of the points system run by other traders.

### Length of ownership period

More than three quarters of timeshare owners are tied into contracts requiring them to pay the annual fees – whether or not they use the accommodation – for periods greater than fifty years. A large proportion of them having the obligation for ever. These contracts were established at a time when traders believed that timeshare was something owners wanted to pass down to their children as an asset. A belief that turned out to be entirely wrong.

Many consumers did not realise the obligations of such a long term agreement until they decided they wanted to withdraw from ownership and found that the asset they owned was now a liability because nobody wanted to buy - least of all the developer who sold it to them in the first place. Then the realisation struck that their were stuck with a millstone around their neck for ever.

This long term ownership obligation is the source of considerable distress to owners who are horrified at the realisation that their children (and **their** children ad infinitum) will have to keep on paying every year. This distress is often turned to the advantage of the resale fraud operators who claim to be able to “rescue” the owner from their obligation to pay, but fail to do so [see Page 34]

### Exchange System

The ability for timeshare owners to swap their ownership in any year for another time period and/or place is the lifeblood of the timeshare concept.

There are four companies in the EU offering an exchange service, all based in the UK. Two large ones, *RCI* and *Interval International "Interval"* are subsidiaries of US companies, and two small ones, *Dial an Exchange "DaE"* and *United Kingdom Resort Exchange "UKRE"*. *RCI* and *Interval* also provide a travel service to their members making a holiday booking a “one stop” process.

Between 60% & 65% of timeshare owners are claimed to be members of an exchange scheme with just under 50% of them actually making an exchange each year.

### Banking of weeks for exchange

A timeshare owner wanting to go to another resort and/or time in the year puts their week of ownership (for one year) into the exchange company "space bank" and is offered a week elsewhere in exchange. As an added flexibility the exchange company may accept a week in one year in exchange for a week in the preceding or subsequent year - "borrowing" or "lending".

Each exchange company operates in a slightly different way. *RCI* requires owners to place their own week in the space bank before being allowed to take out a week. And *RCI* mostly enforce a "like for like" system whereby the banked week must be equal to or superior in quality and desirability (a seasonal assessment) to the taken week. *Interval*, *DaE* and *UKRE* are more flexible generally allowing any week to be banked and taken.

## Affiliation of Resorts to Exchange Companies

*RCI* and *Interval* operate a resort affiliation scheme. A purchaser at a resort will be enrolled into the affiliated exchange company for 2 or 3 years thereafter having to pay the exchange company annual fees directly to the exchange company. The benefit to the resort of affiliation is the incoming exchangees who are fodder for the sales people. Neither *DaE* nor *UKRE* operate an affiliation system, offering membership to owners in any resort.

In recent years, as resorts have declined in quality standards, some have been disaffiliated by *RCI* and *Interval*. Disaffiliation is almost always the first sign of a potential resort closure. [see Page 7]

## Quality rating of resorts

There is no independent system for rating the quality of timeshare resorts nor any agreed standard criteria. used by the industry, unlike the hotel industry.

*RCI* and *Interval* rate their affiliated resorts on a quality criteria with three grades, each given different names by *RCI* and *Interval* - but "Gold", "Silver" and "Bronze" adequately describes the system.

There have been reports that preferred developers have received better quality ratings than is justified by owners experiences. This fiddling of the system benefits the preferred developer as it provides them with a greater number of exchangees for their selling machine.

## Seasonal banding of regions

Both *RCI* and *Interval* seasonally band weeks in each region into High, Medium and Low (similar to the banding of weeks in a floating week system) [see Page 2]. This is to indicate the level of natural consumer demand but the banding is sometimes intentionally distorted to aid selling.

## Cost of exchange

*RCI*, *Interval* and *UKRE* charge an annual membership fee (currently just under £100) but *DaE* make no charge for membership. All the companies charge for arranging an exchange at prices ranging from £100 to over £200 per week depending on a number of factors including the region chosen to take out of the space bank.

Owners banking a week for exchange are still required to pay the annual management fees. to their own resort [see Page 39]

## Rental/Bonus weeks

All the exchange companies are now deeply involved in renting out timeshare weeks to their members. These rental services are often called "bonus weeks" or "extra weeks" and are generally priced between the open market rental rate and a normal exchange rate making them attractive to members of the exchange organisation.

*RCI* have been accused of transferring high season weeks out of their exchange space-bank into their rental pool to make more money. This has resulted in a growth of complaints that owners have not been able to get an exchange week in high season and having to pay more to buy a "bonus" week.

## Owners denied the right to use an exchange company of their choice..

A number of developers restrict their owners from using an exchange company of their own choice. Typically *Diamond Resorts* refuse to allow an exchange organised by *Dial an Exchange*..

## Timeshare Resorts

### Luxury to Lacklustre in three decades

Almost all European timeshare resorts were built (or converted) in the 1980's and early 90's mostly with well appointed, en-suite, accommodation ranging in size from a studio (1 bedroom) through to 3 bedroom, 3 bathrooms villas with on-site facilities generally of the very highest standard. Most resorts comprise of buildings but some 10 are (or have been) based on boats and at least one on a, short lived, static caravan scheme.

All timeshare accommodation is self-catering.

This initial high quality put timeshare well ahead of the then competition and enabled sales people to legitimately claim "more luxurious than ....." and "you're getting your own super holiday villa".

But by 2000 standards had begun to drift downwards.

Now many resorts are looking tired. What had been "five star" are now struggling to compete at three star level. Money paid by owners to maintain standards and keep the accommodation fresh and new has been filched by the management. This has led to an increasing level of owner disenchantment.

But the decline in standards has not been universal. Some resorts, mostly those managed by the "Good guys" [see Page 8] are still holding their heads up proudly. But they are now in the minority as traders milk owners, giving nothing back in return.

### Resort downsizing & closures

Of the 1,121 timeshare resorts counted in Europe in 2005, at least 115 have since closed and many more are heading towards to closure, often with as little as 20% occupancy by timeshare owners. One resort with capacity for 850 owners has only 11 remaining !

It is suspected that many more would have closed had the real estate market in Spain held up. But the recession put a stop to many property sales. When the market for large scale property in Spain does recover then many more resorts will cease to be for timeshare owners

### Resorts in Trust

Owners question how a resort, ostensibly held in trust to protect their interests, can be closed down from under them.

These "en-trusted" resorts mostly have an Owners Club. The Club has a Constitution which enables the Club, in General Meeting, to wind itself up on a 75% majority vote – a figure easy for the management to achieve if only a few owners remain (or they fiddle the votes) [see Page 37]. Once the club is wound up the trust can be dissolved allowing the property to revert back to the developer.

Alternatively the management company can make life so miserable for the owners – massive hikes in fees coupled with deterioration in standards - that owners simply walk away leaving the resort deserted. Exactly what happened to owners in *Lanzarote Beach Club* [see Page 17]

## THE INDUSTRY

### The **GOOD**, the **BAD**, and the **UGLY**.

All industries have their share of rogues but the timeshare industry in Europe has considerably more than its fair share.

Timeshare traders in Europe fall into three groups based on the number and type of consumer complaints made about them.

#### **The GOOD** =====

The majority of the smaller resorts (100 to 2,000 owners) together with a handful of large companies fail to cause any real problems for consumers. Approximately 35% of timeshare owners are in resorts run by these "Good" guys.

#### ***Hapimag***

Based in Switzerland with a claimed membership of 140,000, mainly German and Italian speaking, with around 2,000 UK members.

*Hapimag* was the first timeshare operator in the world (formed in 1963) and is by far the largest in Europe representing around 10% of the claimed European ownership base. It has a "buy-back" scheme but recent years of weak trading performance has resulted in a shortfall of funds to enable the re-purchase leaving some 20% of members on the "want out" list. What is not disclosed is the number of owners who have already "walked away" having stopped paying their annual fees.

*Hapimag* are one of only two major companies in the industry to publish meaningful accounts (*Diamond Resorts* being the other) In the year 2011 they made a trading profit of €1.2 million on a turnover of €186 million but with an almost static level of membership..

#### ***Holiday Property Bond, "HPB"***

With a claimed membership of 40,000 (almost all UK citizens) in resorts spread over Europe.

A promoted strength of the *HPB* scheme is the guarantee that a proportion (varies around 65%) of the original purchase price will be paid by *HPB* after a few years to any member who wishes to exit. However *HPB* do not disclose how many members apply to trigger this provision nor how many have been successful.

*HPB* operates within a complex web of unstructured companies and unincorporated businesses making any analysis of its true performance difficult. However *HPB* is a totally "complaint free" business.

#### ***Hilton Grand Vacation Club***

The European division of the worldwide timeshare and hotel operator with four resorts in Europe none of which produce any consumer complaints whatsoever. Proving that it can be done !

#### ***The Holiday Club***

Based in Finland with a claimed 36,000 members, almost all Finnish, and a good reputation for the way they treat their members.

### ***Dial an Exchange***

A small exchange company based in the UK with less than 25,000 active members. This company essentially defines how an exchange business should be run – consumer friendly; ability to book before banking; very low annual fees (sometimes free!) and fair/reasonable exchange fees.

### ***De Vere Hotels & Resorts***

With 4 resorts in the UK, demonstrates that a timeshare operation can be consumer friendly.

But, just at the time – 2005 - that timeshare operators were pulling in their horns, *de Vere* launched a new development called *The Carrick*. Not unexpectedly, sales were well below budget resulting in the few owners who bought now being charged massive annual fees to account for the shortfall in ownership.

But owners at their other resorts appear very happy with their ownership.

### ***Interval International. “Interval”***

A subsidiary of *Interval Leisure Group* (in the US), *Interval* is the second largest exchange company in the world (after *RCI*) with around 85,000 European members. Generally regarded as having a higher standard of resorts in its portfolio than *RCI*, *Interval* has not generated a single unresolved complaint in the last 5 years. But there are suspicions that *Interval* are colluding with the likes of *Diamond Resorts* to the financial detriment of their members – so *Interval* only just scraped into the “Good” group by the skin of their teeth!

### ***Pestana Hotels & Resorts***

A worldwide hotel group with timeshare resorts in Madeira – and a total absence of any consumer complaints.

### ***Mondi-Holiday***

Based in Germany with an almost wholly German speaking membership. *Mondi* operate an “aparthotel” scheme enabling them to switch accommodation between timeshare use and hotel guests with the full understanding of the timeshare owners. Another “complaint free” organisation.

### ***Tresco***

In the Scilly Isles, was almost unique in having a waiting list for membership.

Foolishly it's developer made a decision to build further accommodation just at a time when the general downturn in timeshare was becoming apparent. Now, instead of a queue outside waiting to get in, there is a (small) queue inside wanting to get out.

However that does not detract from the fact that *Tresco* has always had an excellent reputation for being a well managed, friendly, sensibly priced resort.

### ***Langdale,***

One of the very original resorts in the UK still maintaining high standards of accommodation and well satisfied owners although possibly now suffering from an “ageing” problem.

## The BAD =====

The “Bad” group consist of traders acting in an anti-consumer manner but without the often criminal excesses of the “Uglies” . Approximately 20% of timeshare owners are in resorts run by the “Bad” guys

### **Seasons Holidays**

Essentially a well and honestly run organisation, based in South Wales, but suffering from an arrogance in the way it deals with its owners. For example:-

- Unilaterally banning dogs from its resorts despite a number of owners having bought with the specific promise that their dog would be allowed.
- Changing from *RCI* exchange to *Interval* without any discussion with their owners. Although the change was probably in the interests of owners many felt offended by the lack of consultation.
- Blocking owners from dealing with *Dial an Exchange*

### **Marriott Vacation Club**

A worldwide club – based in the US - with 3 resorts in Europe.

Five years ago *Marriott* would have been near the top of the “Good” list but an ever increasing volume of complaints in recent years now puts them firmly into the “Bad” category . Their two main operations in Europe (Majorca and Marbella) now produce consumer complaints about aggressive sales practices and misrepresentation indicative of a change of sales policy and not simply the result of the occasional rogue sales person.

Existing owners are generally very well satisfied with the accommodation which, whilst expensive, is of a high standard.

According to reliable sources, *Marriott* resigned from the trade body [see Page 19] to avoid being tarred with the same brush as *Club la Costa* and *Resort Properties*. In 2011 *Marriott* in the US announced that it was hiving off the timeshare division because it was becoming a financial drag on their mainstream activity of hotel management.

### **Diamond Resorts, Europe**

(previously *Grand Vacation Club* and *Sunterra*)

Based in England - a subsidiary of *Diamond Resorts Inc* in the US – claiming around 70,000 owners in 32 resorts throughout Europe.

Had this business still been running as *Sunterra* under the management of *Nick Benson* it would certainly have fallen into the “Ugly” category but *Diamond*, having bought out *Sunterra* five years ago, made a number of modest changes to the previously deceitful practices which marginally improved satisfaction amongst their owners.

But annual fees are nearly 3 times higher than the industry average – an average already un-competitive in relation to equivalent rental rates. A cause of major concern to their owners. [see Page 39]

For some time *Diamond* have been converting owners from weeks ownership to their points system – for a substantial payment - because, it is believed, it enables *Diamond* to release resorts from trust so that they can be eventually sold on the real estate market.

An estimated 30,000 of their owners have stopped paying annual fees despite threats of legal action from *Diamond* and their debt collectors *Daniels Silverman* who used aggressive, intimidating, tactics. But an equally large number are still paying because they are scared of being taken to court.

The *Diamond* accounts for 2011 of the top company in Europe – *Diamond Resorts (Holdings) Ltd* - show they –

- are owed £52.6 million by owners who have stopped paying
- are now generating nearly a quarter of their income from rental, not timeshare
- have not made a profit since 2004
- are insolvent to the tune of £26 million

Some observers question why the company continues to trade !

*Diamond/Sunterra* practices have been exposed a number of times on UK TV and recently on BBC TV “Rip Off Britain”.

### **Anfi Sales,**

The marketing company for one of the most prestigious timeshare groups in Europe. based in Gran Canaria

However in recent years there have been increasing consumer complaints about their selling methods.including:-

- Making sales into accommodation which was never constructed.
- Substantial misrepresentation
- Breaches of the timeshare law
- Very aggressive selling and improper debt collecting practices

leaving a nasty taste in the mouths of consumers and spoiling the reputation of a previously highly regarded organisation..

Owners are very disenchanted by the negative attitude to helping them make a sale or rental.

Owners who bought many years ago still regard the accommodation and facilities as being good, but some is now looking tired not having sufficient money spent to keep it in top notch condition. If Anfi can get rid of their anti-consumer practices and spend some money on refurbishment it would quickly return to the “Good” group.

### **The rest of the “Bad”**

Another twenty or so medium sized businesses fall into the “Bad” category but do not warrant detailed exposure.

## The UGLY =====

The cess-pit of the industry.

The “Ugly” group are the principle reason for the poor reputation of the whole industry. Most have been the cause of numerous complaints involving fraud; breaches of consumer laws; forgery; invalid contracts, theft and extortion as well as tax evasion.

Approximately 45% of timesharers are (or have been) owners in resorts run by these “Uglies”

### **Club la Costa, Europe, “CLC”**

Based in Spain, *CLC* is notionally the fourth largest company in the industry with a claimed ownership base of 50,000 in 28 resorts. However the true number of members who are now paying annual fees is believed to be closer to 35,000 – the majority being members of one of their “points” clubs.

Whilst *CLC* has documentation that is a model of good practice their marketing techniques are a model of duplicity.

*CLC* use a rigidly structured, two stage, sales process:-

1. tell them lies to get them hooked
2. then, a year later, upgrade them with further lies’ .

Initial sales are made for £7,000 - £10,000 with the requirement that the owner must take their first holiday at a specific *CLC* resort – where they are told that their ownership will not get them what they thought they had bought. The upgrade salesman sometimes admits that “The original salesman may have misled you last year”. Now deeply committed and often tied into a big bank loan they willingly pay to upgrade. Some owners have ended up paying £30,000 for what they thought they had originally bought for £7,000.

*CLC* have a sophisticated and slick “denial” process highly refined over the years which has been very effective in scaring off most of its complainants but would be ineffective in a court of law which is probably why *CLC* settle claims that look as if they are heading for a court !

*CLC* history of lies goes back to the mid 1980’s. A German consumer organisation believe that *CLC* were solely responsible for the near collapse of the German timeshare market because of their objectionable selling practices. *CLC* have been the most widely exposed “hard sell” timeshare operator on both TV and in the press in the UK yet continue unabashed with their practices.

Reflecting the general downturn of the industry *CLC* closed down all selling activities in the UK in 2011 to concentrate on Spain

*CLC* annual fees are now twice the level they were at in 2001 during a period when inflation only increased by around 35%. This has resulted in a mass exodus estimated to be on par with that of *Diamond Resorts* - ie. 25% to 30% of recorded members having stopped paying. Most of those continuing to pay are being frightened into doing so by threats of court action by *CLC* and their lawyers

With around 100 companies, trusts and unincorporated entities based in the Isle of Man, Spain and further afield the true trading picture of the whole *CLC* group is indistinct. But the accounts for the main UK company, *Club la Costa (UK) plc*, show that it has traded at a substantial loss for the last 4 years, and is insolvent to the tune of £10 million .

But, irrespective of what the accounts show, *Club la Costa* has made the *Peires* family extremely wealthy .

**RCI, Europe**

(subsidiary of *Wyndham Worldwide* based in the US)

*RCI* is the largest of the European exchange companies having more members than the other 3 exchange companies combined. An indicator of the decline in *RCI* membership can be gauged from the circulation of their "Holiday" magazine which fell from a high of 212,000 in 2004 to 168,000 in 2008 at which point *RCI* ceased publishing the information! Current circulation is put at around 130,000

The most common complaint about *RCI* is lack of availability - "We can't get the holiday we want, or even any holiday at all". *RCI* is fully aware of these complaints but avoids responsibility blaming the sales promises but fail to take any action stop resort sales people misleading purchasers.

It has been alleged, on both sides of the Atlantic, that *RCI* have been taking high season weeks out of the exchange pool and putting them through its numerous "sister" companies offering rental bookings services to the general public. In a US court case *RCI* admitted "skimming" exchange weeks and placing them into the rental market, claiming that this was legal because it was included in their terms and conditions – a key fact not made clear to consumers when they bought. *RCI* agreed to pay compensation to their timeshare members. A similar claim is in process in the English courts

In the late 1900's *RCI* were pressed to use their muscle to clean up the industry. Their lame excuse for not doing so was that they were legally a monopoly so could not be seen to use that monopolistic position improperly. What they really meant was that a dirty industry was more profitable to them than a clean one!

In 2000 *RCI* proudly announced that *Bob Trotta* of *Resort Properties* (see later) was to be the first name on the *RCI* "Hall of Fame" list. A clear indication where *RCI* sympathies really lie !!

**Silverpoint Group**

(previously *Resort Properties*)

*Silverpoint* claim around 45,000 owners in their 5 resorts in Tenerife plus resorts in Dubai, Tuscany and Florida

*Silverpoint/Resort Properties* have operated the most pernicious investment fraud over the past 20 years stealing c. £150 million from around 6,500 consumers. One couple paid just under £250,000 over a 12 year period to end up owning just two low season weeks worth less than £500 the pair.

In addition there is firm evidence of substantial tax evasion to the value of approx. £8 million each year – evasion which has continued for at least 15 years and probably longer.

For a great many years *Resort Properties* totally ignored the requirements of the timeshare law in Spain by failing to disclose a cooling off period and by taking a deposit during the cooling off period. Anyone who properly cancelled within the cooling off period was aggressively told that they had no right to cancel. Many were so scared that they continued to make the purchase payments.

In December 2011 *Silverpoint* unilaterally cancelled the debt (for their share of management fees for unsold accommodation) owed to four timeshare clubs under their control. The clubs had no say in this theft of €11.4 million of their money.

A great many of their owners have stopped paying annual fees but some continue to pay because they are harassed and bullied into doing so by the company and their Spanish lawyers – although nobody has yet been taken to court. Some owners continue to pay in the naive belief that they were keeping their "investment" alive.

Two groups of victims are making claims in the courts for recovery of stolen money. The UK group are claiming against *Barclays Bank* (who provided loans for the purchase) and the Tenerife group are claiming in criminal proceedings against the individuals who control and sell for *Silverpoint/Resort Properties*.

*Bob Trotta*, who controls *Silverpoint/Resort Properties* (and nearly 100 companies including some in BVI and Panama) has pocketed close on £250 million through lies, frauds and tax evasion. He is also involved in a failed development in Jamaica, The Palmyra Resort, which appears to have lost two Jamaican banks a lot of money

In December 2011 the Tenerife Police launched a court ordered criminal investigation into alleged fraud in *Silverpoint/Resort Properties* naming *Bob Trotta & Mark Cushway* (CEO) and 19 other employees. The alleged frauds included double selling of weeks, the "investment" fraud and theft by false statements..

### **Azure Resorts**

*Azure*, based in Malta, is half owned by *Bob Trotta* (see *Silverpoint/Resort Properties* above) and sells "fractional" membership in the *Island Residence Club* (utilising part of Radisson Blu Golden Sands hotel) working in an identical way to their Tenerife operation including the investment fraud. This is also the subject of court action in the UK

The other half of *Azure Resorts* is owned by a respected Maltese family (*Zahra*) which makes their continued involvement with *Trotta* raise questions about their "respectability", especially as they were made fully aware some years ago of the frauds operated by *Azure*.

It is not known how much *Bob Trotta* has personally received from the Maltese operation but based on sales values at *Azure* it is likely to be in the region £30 million over an 8 year period. .

### **Petchey Leisure**

(controlled the Indian *MGM Group* as from mid 2012)

Based in Portugal (previously Essex) with a claimed 55,000 members but with a true paying membership of no more than 40,000

*Petchey* operate a variety of timeshare resorts and points clubs in Spain and Portugal. (and previously in the UK).

*Petchey* specialise in the "up-grade" scam enticing many owners in *Clube Praia d'Oura*, Portugal, to "upgrade" from a short life ownership to one lasting 50 years falsely claiming "it will be easier to sell" .

When *Petchey* took over the *Montechoro Beach Club* in 2006 the predominantly Portuguese owners were angered by an overnight increase in annual fees of 82%. An anger which spilled over into the Portuguese courts.

### **Macdonald Resorts**

(previously *Barratt International Resorts Ltd*)

Based in Scotland with resorts in Scotland, England, Wales and Spain with an estimated 22,000 members *Macdonald* has established a reputation for overcharging annual fees by the use of false accounting practices. The amount estimated to have been stolen from owners over the past 20 years is around £30 million [see Page 38]

*Macdonald* is one of the very few companies to have taken court action against owners – including some aged over 80' - who had stopped paying their annual fees. They even threatened legal action against the executors of a deceased owners' estate but "chickened" when confronted with a possible exposure of this despicable action.

The current CEO of *Macdonald Resorts*, *Simon Jackson*, recently promised an “exit” programme for some owners which, on closer inspection, looks distinctly like a “smoke and mirrors” exercise. No one is holding their breath.!

### ***First National Trustee Company, “FNTC”***

*FNTC*, based in the Isle of Man, has played a pivotal role in the conspiracy to cheat consumers from the very inception of timeshare in Europe

*FNTC* provide a trust system which appears, on casual inspection, to provide “security of tenure” to consumers who buy a timeshare. In reality *FNTC* colluded with resort developers to close down resorts, against the wishes of the owners, to enable the developers to utilise the resort for other purposes..

*FNTC* also set up bank accounts in the Isle of Man to enable developers to transfer substantial sums of money, sourced in the EU, to other off-shore havens to avoid taxation and thwart attempts of potential creditors seeking recovery.

And there have been questions about the involvement of *FNTC* with *Sunterra* (now *Diamond Resorts*) in the issuing of points to owners possibly in excess of the number of points available in the accommodation. Whether or not these actions constitute a criminal conspiracy has yet to be tested in court.

The leading lights in *FNTC* were/are *Lee Penrose*, *Declan Kenny*, *Paul Gardner-Bougaard* (now CEO of *RDO*) and *Philip Broomhead* (a solicitor) who refined the art of misleading owners in General Meetings into believing that *FNTC* was acting in their interests,. Which was far from the truth,

### ***Regency Resorts***

*Regency* offered many consumers the opportunity to “invest” in a new project in Tenerife which never materialised and the investors were left with nothing. A group of victims are now taking legal action in Tenerife to recover the stolen money

*Ward Woods*, who runs *Regency Resorts*, was Chairman of *OTE* [see Page 19] until the complaints about his company became too hot for even *OTE* to bear,. Consumers who complained to the *OTE* that they had been swindled were judged by the swindler himself !

### ***Regency Resorts & Hotels***

Unrelated to *Regency Resorts* in Tenerife, this Madeira company operated an identical “investment” fraud to the Tenerife company, for a future development which never happened. A few victims were able to recover their money using a lawyer in Madeira but many were left unsatisfied. But they continue to break the timeshare law.

### ***Palm Oasis***

A small resort in Gran Canaria which breaks all the rules. Failure to pay local and national taxes resulted in a bill of €12 million and their failure to register timeshare owners in the local registry provided many owners with a perfect opportunity to get out, despite demands by the resort. *Palm Oasis* use very aggressive debt collecting techniques, including using UK based debt collectors, to frighten owners into continuing to pay their exorbitant fees.

### **Shakespeare Classic Line**

Based in the UK selling and managing a number of timeshare schemes in boats in the UK and Turkey.

Two directors of *Shakespeare Classic Line Ltd.* – *Andy Harris* and *David Evans* – are to face criminal charges of “unfair trading” in the Warwick Crown Court in April 2003.

### **Other UGLIES, past and present:-**

There are many smaller enterprises that routinely use(d) substantial misrepresentation and anti-consumer practices to obtain money. Typically:-

- *Access2Leisure, Malta*
- *Altres Vacances, Majorca*
- *Brockwood Hall, UK (Paul Rhind)*
- *Brockwood Hall, Dysarth Falls & Carvenyck Cottages, UK (John Byron, Peter Metcalf)*
- *Club Greece/Aegean Blue, Greece etc.*
- *Elite Club, Fuerteventura (Michael Gates)*
- *Exclusive Club, Malta*
- *Stratford Court/Cruisers (Mark Tildesley)*
- *Thurnham Hall, UK (Fred Fogg)*
- *MVI, UK (Mark Lazarus & Jason Wynne)*
- *Club LaBourse, World – (Brian Wates)*
- *Worldwide Vacations, UK– (Paul Shipway)*
- *Fairways Club, Tenerife - (Martin Beesley)*
- *Graig Park/Dysarth Falls, UK - (Goddard brothers).*
- *Grand Holidays, Canaries*
- *Diversified /Heritage/Future/SSB/BIC, Spain (Mark Laliberte, Norman Anderson and Geoff Bickerton)*
- *Lakeview Country Club, UK (Mike Vernon),*
- *Lion Resorts, Cyprus*
- *Ora Vacations, Canaries*
- *Highpoint Business Solutions, Spain (Peter Hutchinson)*
- *Pueblo Evita, Spain (Martin Beesley)*
- *Selena Wharf, Malta*
- *Spice/Aroma (Stewart Lamont & Robin Mills)*
- *Timeshare Computer Link, UK (Andy Harris)*
- *Travel & Leisure Group UK (Maria Mills-Farinas)*
- *Visions of the World, UK (Jason Clowrey)*

### **Career Criminals who use(d) timeshare as an easy way of making money.**

#### **John Palmer**

Developed and marketed 12 resorts in Tenerife in the 1980's and early 90's .

Acquitted in 1987 of handling gold bullion from the £26 million Brinks-MAT raid he later received convictions for false credit and mortgage claims and was finally convicted in 2002 of defrauding a number of timeshare owners and sentenced to 8 years in jail. Five of his employees were also jailed (in a separate case) for their involvement in the fraud

Following his criminal conviction a group of owners made a claim for compensation which the court granted but, when *Palmer* failed to pay, he was made bankrupt. Agents for the compensation group are still seeking out and liquidating assets to pay the claim. In the process the agents established that *Palmer* had failed to pay about €25 million in tax resulting in embargoes being placed on the resorts. .

*Palmer* employed an army of thugs, some of whom carried guns, to provide him with protection and to “discourage” trouble makers amongst the owners.

In 2007 he was imprisoned in Spain on allegations of money laundering, drug running, possession of a firearm and other related crimes. He was released in 2009 but the indictments still stand.

The scale of his criminal activities is immense. The Sunday Times estimated his wealth at £300 million in 2001, mostly the proceeds of timeshare crime and tax evasion.

### **Garry Leigh**

*Leigh* fled the UK to Spain hotly pursued by the UK authorities alleging his involvement in a pyramid selling scam. Using a stolen company, *Timelinx*, he set up a holiday club, *Designer Way Vacation Club*, together with a number of fraudulent marketing companies including *Incentive Leisure Group* and *Personal Travel Group*. He was convicted of fraud in Reading Crown Court in 2009 of fraud and was fined.

*Leigh* is estimated to have taken £600 million from consumers over a 11 year period – paying only a fraction of the relevant tax by transferring money through a bank in Andorra. He was killed in a road accident in June 2010 and his businesses ceased to trade soon thereafter.

### **Peter Utal**

*Utal* is probably the arch proponent, together with co-conspirator *Andy Cooper*, of all the major scams including holiday clubs and the advance fee fraud [see Page 34]

*Utal* started his career in the “night club” business and was convicted of living off immoral earnings in London and sentenced to 12 months imprisonment. He, and his brother *Victor*, then set up a legitimate resale company, *ETOO*, which soon morphed into a resale scam operation. This was followed by bogus holiday clubs, *Premiere Club*, *Club Class Holidays/Concierge*, and numerous fraudulent marketing companies including *ITRA*.

Both *Utal* and *Cooper*, are “known to” the Metropolitan Police and are under investigation by the Malaga police having operated under around 60 different trading names in the UK and Spain.

It is estimated that *Utal* has stolen close on £500 million in the last decade through his various frauds and has failed to pay tax on the majority of that money by transferring it through a bank in Gibraltar and thence to a bank in the Seychelles.

In 2011 the UK government applied to the courts for the closure of all *Club Class* companies in Europe. *Utal* is now moving the epicentre of his business from Spain to Asia where his fraudulent activities have already come the attention of the Singaporean authorities!

### **David Stirling**

*Sterling* was convicted of fraud in the USA and then moved to Lanzarote where he set up a timeshare resort, *Lanzarote Beach Club*. Having sold memberships to over 16,500 consumers he closed the resort down in 2003 leaving all the owners without their timeshare accommodation. Criminal and civil proceedings were commenced against him and 7 of his staff *Robbie Stirling*, his son, is a known associate of *John Palmer* (see above)

***Horst Hummel***

*Hummel* is understood to have a criminal record relating to fraud in Germany. He set up a couple of resorts on Tenerife but had to sell one off to pay a major tax liability. He, and his son *Ralph*, continue to run *Chayofa* in an anti-consumer manner

**(A few of the) timeshare traders who have been convicted:-**

- ***Graham Maynard*** – UK - 2 years jail
- ***Scott brothers*** – France - Fined
- ***Arthur Goddard and Brian Hill*** - UK – 2½ years jail each
- ***Carol Small*** – UK - fined
- ***Toni Muldoon*** - Spain – 2 years jail
- ***Richard Bain*** (aka Richard Thompson) - UK & Spain – on the run
- ***Roger Farr*** – UK – 7 years jail
- ***Elkem Markam*** - UK – on the run
- ***John McCrae, Jeremy Adamson & Andrew Holt*** - UK – 2 years jail each
- ***Roger & Michael Steed*** (brothers) – UK – 4 & 3 years jail respectively
- ***Jeff Armstrong***, - UK – 9 months jail;
- ***Coby Vischer***, - Tenerife – 12 months prison

## Thieves Guild

### Two linked organisations, financed by traders, who:-

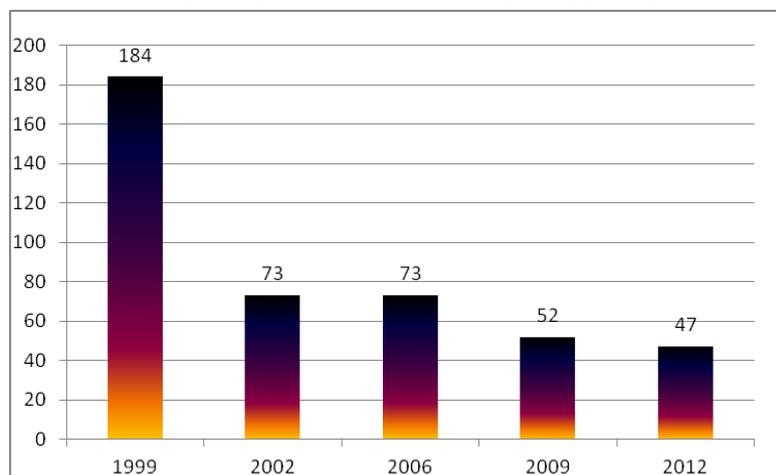
- claim that they act in the interests of consumers - **they don't**
- claim that they have cleaned up the industry - **they haven't**

### 1. Resort Development Organisation "RDO"

(previously Organisation for Timeshare in Europe "OTE")

RDO represents itself as the trade body in Europe. But with only a small fraction of traders in the industry as members this is boastful. In the heady days of 1999 OTE had 184 trade members – a number which has steadily diminished over the years to under 50 in 2012

OTE/RDO Trade Members 1999 - 2012



### RDO is an accurate reflection of the dishonest sector of the industry.

Almost all the companies with a reputation for anti-consumer practices are Members. The dominant force is *RCI*, a company that has failed to use its substantial influence for the long term good of the industry but has instead used its muscle to enhance its own coffers in a short term money grabbing exercise. Even the presence of a few honest companies such as *Interval International*, *Hilton* and *Hapimag* is not sufficient for RDO to present a clean face to the world.

In 2007 the European Commission commenced a review of the Timeshare Directive. OTE fielded two teams, one led by PR officer, *Peter van der Mark* and the other by *Harry Taylor*, CEO of *TATOC*. [see Page 21]

*Van der Mark* had the enviable skill of being able to tell lies, fluently, in five different languages. But he misjudged the ability of the Brussels bureaucrats to see through his misleading rhetoric. He was christened "Vin de Plonk" by a BBC producer frustrated at his evasive and disingenuous interview technique!

Initially the teams argued that no new law was required as the industry had "cleaned up" its act. But the Commission, fuelled by numerous consumer complaints from around the EU, soon put that argument to rest. So the teams changed tactics, arguing that all the complaints were about Discount Travel Clubs (their phrase for their much hated Holiday Club cousins) but, by the time the debate reached the European Parliament it was clear that nobody in Brussels believed a word spoken by the OTE/TATOC teams and a new Timeshare Directive was

approved which considerably strengthened consumer protection. Finally, when the die was cast on the new Directive OTE, chameleon like, announced that this was an excellent law which would be of great help to the industry !

Recently RDO mounted a major lobbying programme in an attempt to stop the Spanish Government making amendments to their new timeshare law. Amendments which would have benefitted consumers. It is not known how much this lobbying cost RDO or how successful they were.

In 2011 RDO announced that they had formed a close working relationship with their counterpart in the US, ARDA – a relationship that is unlikely to be of much value to the Americans !

### **RDO is wilfully blind to frauds and breaches of its Code of Ethics by Members.**

The OTE/RDO has had a series of “Codes of Ethics” which have become increasingly worthless as a consumer protective service. The underlying message to their Members now appears to be “Don’t get caught”. Enforcement of the Code is non-existent with complaints about breaches of the Code ignored or quietly filed away and they have often taken the side of their Members even when it was clear that the Member had broken the law.

Attempts by OTE to have its Code of Ethics endorsed by the UK Government were rejected on the grounds that the Code would have limited support (only a small fraction of timeshare traders being members of OTE) and the Code did not contain any facility for independent supervision.

Three of the four resale brokers who are Members of RDO (*Visions of the World, Travel & Leisure* and *Timeshare Computer Link*) break the RDO Code in giving owners misleadingly high valuations and omitting to tell sellers the realistic chances of actually making a sale at their valuation (usually nil), in order to extract an illegal up-front payment. Two are cold-calling (using misappropriated ownership lists) and another has struck an “under the counter” deal with a scam holiday club business resulting in it making over 90% of its income from up-front fees and less than 10% from commissions on sales. RDO simply ignores complaints.

Two leading Members of RDO (*Resort Properties* and *Regency Resorts*, both in Tenerife) have practiced the investment fraud for a great many years, to the detriment of nearly 8,000 consumers. RDO claim to have “investigated” complaints as a breach of their Code but have found “nothing wrong” and the frauds continued.

### **Other rogue members, past & present, of OTE/RDO**

exposed elsewhere in this report as causing serious consumer detriment:-

- *Anfi*, Gran Canaria
- *Club la Costa*, Spain
- *Petchey Leisure*, Spain & Portugal
- *FNTC*, Isle of Man
- *Club Greece*
- *Regency Hotels & Resorts*, Madeira
- *ETOO* .

### **RDO Finances in a fragile state**

RDO has three main sources of income:-

1. Annual membership fees based on the type of membership. With membership numbers more than halved in a decade this source of income is seriously down.
2. A levy on sales made by members. A substantial reduction in sales volumes has hit this source very hard
3. Profit from an annual conference. The 2009 conference was cancelled due to “lack of interest” but subsequent conferences are believed to have made a modest profit

To keep expenditure in line with income *RDO* moved office from Brussels to London losing a number of staff in the process. The London “office” does not have a telephone number and is “not available for personal callers” as the three remaining staff appear to work from their homes. *RDO* also ceased road-shows and cut out a number of committees and their activities. The move of registered office to Jersey now enables them to hide details of finances and officers from prying eyes.

*RDO* (and *TATOC*) are very active in attempting to expose consumer problems resulting from rogues in the fraudulent resale, money back and holiday club businesses. But are noticeably silent when questioned as to why these rogues exist in the first place, unwilling to admit that it is the actions of their own Members which are driving consumers into the arms of the crooks. Daily examples published by *Mindtimeshare* (edited by *RDO* employee *Alberto Garcia*, previously a senior police officer in Spain) backfired having had exactly the opposite effect to that intended. Instead of alerting consumers to various frauds, consumers, bombarded with negative news about timeshare simply took it as confirmation that the industry is a minefield best avoided. And *Mindtimeshare* conveniently omits any warnings about *RDO* members who are acting fraudulently. “One doesn’t bite the hand that feeds” !

### ***RDO* Public Relations - “ignoring the elephant in the room”**

*RDO* continue to feed the public with factually challenged “puff” making no attempt to address the problem of the general perception that timeshare is a scam. Possibly because they have lived too close to the problem for too long or they realise that any changes to their practices that might eventually recover consumer confidence would seriously damage their finances in the short and medium term.

## **2. *TATOC* (*Timeshare Association*)**

(previously “*The Association of Timeshare Owners Committees*”)

*TATOC* was set up in the mid 1990’s by the then trade body (a predecessor to *OTE*) as the “consumer friendly face of timeshare”.

For a number of years *TATOC* role was low key then, in the mid 2000’s, when the Brussels debate on the new Timeshare Directive was launched, *OTE* financed *TATOC* to lobby in Brussels “on the consumers behalf”. The fact that *TATOC* and *OTE* were singing the same tune persuaded the European Commission (and Parliament) to mistrust both.

In 2009 *TATOC* had a partial change of name to “*Timeshare Association*” and was given a new remit by *RDO* “To promote the positive aspects of Timeshare” with funding from *RDO* and a number of individual traders, most of whom were also members of *RDO*. The new name enabled *TATOC* to suggest that it was a “Consumer Organisation”. and they also falsely claimed to be a “charity”.

*TATOC* now heads up a number of PR schemes in an attempt to swamp the mass of negativity in the media with positive messages about timeshare:-

- ***GoTimeshare*** – an internet PR operation producing almost one press release a day none of which have got further than the internet. Some are laughable – taking other press releases about holiday subjects and re-releasing having simply introduced the word “timeshare” into the story.
- ***Sharetime*** – a “consumer” publication that continues the tradition of *TATOC* at contemplating its own navel when readers would be much more interested in how to resolve their problems, *Sharetime* progressed from printed to digital with publication becoming more intermittent as funds became scarcer.

TATOC also provide a telephone “Helpline” for consumers. But owners seeking help in respect of timeshare problems may not be aware that their problem company may actually be funding TATOC. “He who pays the piper .....” ! In August 2010 arrangements were made by TATOC for any consumer with a complaint about *Resort Properties* to be passed to *Beverley Clover*, an employee of *Resort Properties* based in Tenerife, unbeknown to the complainant. The classic “wolf in sheep’s clothing” scenario !

TATOC claim that 90% of complaints to their Helpline relate to resale and similar scams and only 10% to timeshare problems. This is at odds with the records kept by *Timeshare Consumers Association* over exactly the same period, which show that 31% of complaints related to timeshare problems and a further 43% relate to problems originally caused by timeshare traders. One wonders who is telling the truth ?

Financial sponsors of TATOC whose anti-consumer practices are exposed under “The Good, The Bad and The Ugly” [see Page 8] include:-

- *Silverpoint/Resort Properties*
- *Club la Costa*
- *Travel & Leisure Group*
- *Macdonald Resorts*
- *Diamond Resorts*
- *RCI*
- *RDO*

Some observers have questioned the close working relationship that *Harry Taylor* – Chairman and CEO of TATOC – has with businesses about which fraud reports have been made including *Lakeview Country Club*, and *Silverpoint/Resort Properties*.

Latest published accounts for TATOC show that they have traded at a loss for the past 3 years and are now substantially insolvent. It is assumed that their “sponsors” are committed to continuing their financial support. ?

## Timeshare and Banks

### Fraudulent timeshare traders and greedy banks make good bedfellows

Very few banks have dared to get involved in the timeshare business. Those that have display an astonishing disregard for the law and blindness to the protection of consumers

Over the past 20 years banks have provided c. £400 million in end-user finance for purchasers of timeshare. All loans made by UK banks, where the loan was arranged by the timeshare trader, provide protection to the borrower under the Consumer Credit Act 1974 [see Page 46]

### **GE Money “GE”**

(Previously *First National Bank*)

GE have been providing end-user loans to selected companies in the timeshare industry for over 20 years having previously provided development funds for new resorts. It is probable that GE has provided loans of more than £250 million to consumers for timeshare purchases.

Although *GE* have been more cautious than *Barclays* (see later) as to which developer they work with, their caution failed when they started lending through *St Frances Marketing* (Exeter) for the purchase of *Classic Cruisers* (owned by *Shakespeare Classic Line*). *St Frances Marketing* were convicted of fraud in Exeter Crown Court and ceased to trade leaving *GE* with a number of claims of misrepresentation by consumers.

In 2007 *GE* announced that they had set aside £80 million for loans to *Club la Costa* purchasers over the following two years although it is not known how much was actually taken up by borrowers. But as a result of substantial complaints of misrepresentation by *Club la Costa* and *St Frances Marketing*, *GE* withdrew from lending for timeshare in 2010.

### ***Barclays' Partner Finance "Barclays"***

(trading name of *Clydesdale Financial Services Ltd.*, a wholly owned subsidiary of *Barclays' Bank plc*).

Even by banking standards, *Barclays* conduct has been disgraceful:-

- No checks are made on the information provided on the loan application form which was often adulterated by the timeshare salesman to ensure that they received the introductory commission.
- No check was made on the ability of the borrower to repay the loan. Monthly repayments of £400 were expected of a couple with a monthly income of £1,100 and 15 year loans were made to 86 year old consumers
- Failing to check that the purchase complied with the relevant laws – many sales were made in complete disregard of the timeshare law which could have made the purchase and loan invalid.
- Failing to satisfy themselves that the sales procedures complied with best practice in the banking industry. Sales people were telling purchasers that the loan repayments were £200 a month when they were actually £500

Overall *Barclays* failed to conduct the necessary due diligence that would be expected of a responsible bank leaving borrowers exposed to criminal acts by sales staff.

When *Barclays* were alerted in 2007 to their involvement in the *Resort Properties* fraud [see Page 33] they moved quickly to protect their own interests by imposing a "recourse" agreement with *Resort Properties* so that *Barclays* could claw back money from *Resort Properties* in the event a borrower defaulted on their loan repayments. But the lending for fraud continued, This is now the subject of a court case in the UK

The scale of *Barclays* lending for timeshare purchases is unknown but is probably just under £100 million.

### ***Hitachi Capital***

Surprisingly for a Japanese bank, normally considered to be more sensitive to criticism than thick skinned European banks. *Hitachi* had a very brief flirtation in 2009 (lasting no more than a few weeks) as a provider of end-user finance to customers of *St Frances Marketing* but quickly withdrew and cancelled all loans that had been taken out when *Hitachi* were advised about its involvement in a fraud.

But subsequently *Hitachi* became briefly involved with *Club la Costa* when *GE Money* withdrew.

### ***Paragon Finance***

*Paragon* ventured into end-user timeshare finance in the 1990's but was caught out by its involvement in a timeshare scam – *Universal Vacation Club* - where claims for misrepresentation are still on-going. *Paragon* rapidly withdrew from the timeshare market.

### **HMC Funding**

*HMC* have operated as “brokers” within the timeshare industry for a great many years providing timeshare developers with access to end-user loans. The business, based in the UK, is run by *Ron Howell*, an ex – employee of *First National Bank* (now *GE Money*)

Not only have *HMC* set up lending agreements between banks and developers but they have also colluded with them to remove the protection of the Consumer Credit Act 1974 from borrowers. Typically *HMC* contact a borrower within the cooling off period offering an alternative, lower cost, loan to that signed up for during the purchase process – often with the same bank as the original loan. So a purchaser who signed up with *Barclays* at 19.87%/annum interest would be offered an alternative loan at 15% with *Barclays*. If the purchaser takes up the new loan (by cancelling the original loan) they are no longer protected by the Consumer Credit Act 1974.

And *HMC* have persuaded purchasers to sign a blank loan application form on the grounds that *HMC* were shopping around for the best deal which *HMC* then completed the form and sent it to the bank. It wasn't until a number of years later, when the borrower is in dispute with the bank that they obtain a copy of the application form to see the purpose of loan as “home improvements”. The bank then argues that it was the borrower who had made the false declaration.

### **Falsification of bank loan applications**

Examples exist of sales people falsifying loan application forms in order to receive the commission provided by the bank.

Salesmen create an entirely new loan application form, with incorrect income figures and forged borrower signature, to ensure that the loan is approved. Because some lenders provide a six or twelve month repayment holiday the false application only comes to light long after any cooling off period has expired when the borrower realised they could not meet the repayment terms. On other occasions salesmen adulterated the form signed by the borrower to add a “one” in front of a annual salary figure of, say £7,500, to bring the apparent income up to the level required by the bank.

The scale of loan falsification is not large but has been the cause of much distress for the victims who were then bullied unmercifully by the banks.

### **Aggressive debt collecting by Banks.**

Complaints about misrepresentation by a timeshare trader (under the Consumer Credit Act 1974 ) to a bank result in both the trader and the bank robustly denying any wrongdoing. The banks then enter into an aggressive, harassing stage of debt collecting despite it being clear that a true dispute does exist.

The debt collection tactics of the banks are quite extraordinary and border on harassment

- Half a dozen telephone calls every day – including to the consumers workplace - from the bank threatening legal action
- Stating that their home is at risk
- Saying that they will contact the consumers employer
- Placing a default notice on the consumers credit record despite the matter being in dispute
- Passing the “debt” to debt collectors who continue the harassment.

A number of consumers report that these tactics have been used for a period of more than 5 years – still without any legal action being started. But in a great many cases these tactics eventually result in the consumer paying the money to avoid the distress and sleepless nights .

Even consumers who have formally demonstrated to the bank that they do not have the resources to pay off the loan continued to be harassed.

### **Credit Card companies**

There is a wide divergence in attitude to timeshare by credit card companies.

Almost all UK based card companies now refuse to provide timeshare traders with card facilities although some traders have obtained such facilities by providing a false statement as to their business.

But in Spain even the most dishonest of timeshare operators appear to have no difficulty obtaining a card facility – much to the chagrin of the UK banks who routinely have to pay out under the Consumer Credit Act 1974 . It is understood that attempts by MasterCard to discourage the granting of card facilities by Spanish banks was rejected by the banks on the grounds that it would lose them substantial commission income !.

For many years some card companies have resisted claims for misrepresentation under the Consumer Credit Act 1974 but recently this resistance has eased with most card companies now being much more helpful to their customers. Even the *Royal Bank of Scotland*, previously one of the most difficult of banks for consumers to claim against, has realised that the majority of claims of misrepresentation were valid . However some card companies still appear to have a policy of rejecting every claim, however valid it might appear resulting in the claims going to the Financial Ombudsman Service.

Generally a consumer who persists with a well argued and well supported claim under the Consumer Credit Act 1974 against a credit card company – taking a disputed claim to the Financial Ombudsman Service - appears likely to succeed.

### **Developers providing extending payment terms (“In-house” loans)**

Developers financing their own customers is standard practice in the US but is very uncommon in Europe. The low level of in-house loans in Europe is probably due to their negative impact on cash flow – sales commissions etc. .having to be paid out before the loan repayments start – and the lack of a bonus payment to sales people as is common when selling using an independent bank loan.

The main self-funding lenders are *First Holiday Finance Ltd. (Club la Costa)* and *Anfi Sales SL (Anfi Group)* and *Minster Investments (Pueblo Evita)* . *Finance International plc (Petchey Leisure)* ceased lending in 2007 due to “high level of bad debts”. A few of the smaller developers do provide extended payment terms but on a very limited scale.

## Corporate Fraud

Tax evasion on a grand scale.

### At least €400 million tax evaded – nearly all in Spain.

Nearly all the major timeshare businesses operating in Europe have their principle company(s) and banks registered in off-shore regimes such as the Isle of Man; Guernsey; Luxembourg, Andorra; Gibraltar; Seychelles; British Virgin Islands “BVI”; Panama; Belize and the Cayman Islands.

These off-shore havens provide facilities for tax evasion, money laundering, protection of assets and secrecy of ownership and control. Just what dishonest traders need to maximise their personal wealth.

But all these traders also register a number of companies in the European countries in which they are trading as their “front face” through which a nominal amount of revenue is transacted to satisfy local authorities. The rest (sometimes as much as 85%) being siphoned off-shore.

In 2000 leading developers were achieving a net profit (before tax) of between 35% and 50% on sales. If they didn't bother to pay tax then all of this went straight into the pocket of the developer. By 2010 the net pre-tax profit had fallen to single digits with some showing a negative figure.

How tax evasion works in the two main tax fields:-

1. Employee tax .
  - a. Many (in some cases all) sales personnel employed by a resort are recorded as “self employed agents” not as “employees”, often using false names. These people are paid from an off-shore account (usually Gibraltar or the Isle of Man) having been given a cash dispenser card to enable them to withdraw cash at any ATM. These payments are not disclosed to the tax authorities.
  - b. Administration employees are put on the “books” but with disclosed salaries only a fraction of what their job is truly worth. A minimal amount of tax is paid on these disclosed “nomina” salaries whilst the salary is topped up, tax free, from the off-shore bank.
  - c. To enable these payments to be made timeshare purchasers are required to make a substantial portion of their payments to the off-shore bank account.
2. Profits tax. With a large proportion of sales income sidestepping the local banks and going directly into an off-shore account the trader can claim that they are operating at a loss or just a tiny profit – on which little or no tax is payable. *Resort Properties* are known to use a Tenerife based company, *Tensel SL* to act as the nominal front, loss making business, whilst some 90% of sales income is actually paid directly into a *Lloyds TSB* bank account in the Isle of Man..

### Examples of tax evasion

The value of tax evaded by the European timeshare industry over the last 30 years is close to half a billion Euro. Most being due to the Spanish Government.

A fraction of this tax has been collected but the vast bulk is still outstanding. The few examples of tax recovery that have surfaced are the tip of the iceberg. *Sunterra* (now *Diamond Resorts*) admitted to two counts of tax evasion amounting to about €13 million but as this only related to a few years the amount still outstanding is uncertain. *John Palmer* (12 resorts on Tenerife) received tax bills of approximately €25 million which, as he failed to pay, resulted in embargoes being placed on his resorts; *Horst Hummel* (*Palms Golf & Country Club*, Tenerife) is

understood to have dodged tax amount to just over €3 million which he eventually paid. And *Palm Oasis*, Gran Canaria, received a bill for unpaid tax amounting to €12 million which it is understood to have eventually paid.

Of the enormous sums still to be collected, *Silverpoint/Resort Properties*, Tenerife probably heads the league by evading tax amounting to between €100 & €140 million and unconfirmed reports suggest that *Club la Costa* may also have avoided substantial tax on its Spanish operations. Others such as *Anfi*, Gran Canaria and *Diversified Resorts*, Spain, are also reported as having dodged their full tax liabilities .

Add in the holiday club scams (typically *Incentive Leisure Group* and *Club Class*) together with a whole army of resale fraudsters and a further €125 - €150 million of tax is also waiting to be collected. Although, as this is spread over many hundreds of businesses, collection will be difficult if not impossible.

It is not known how many of the smaller timeshare companies indulge in tax evasion but there does not appear to be any real evidence that many do. In part this may be down to the small scale of their business which would not warrant the setting up and managing of tax evasion schemes and, in part, because their managers are honest – which often meant that they stayed small !

### **Sales Tax evasion**

Although there is generally no VAT payable on the purchase of a timeshare the annual management fees do attract VAT, (or its regional equivalent) on most of their content in most regions.

There is almost certainly considerable evasion of VAT. *Incentive Leisure Group*, for example, failed to remit VAT collected on sales made in the UK by getting their customers to pay to a bank in Andorra, And a number of traders in Spain are understood to have provided tax inspectors with falsified accounts in order to minimise their VAT liability. However the amount of VAT evaded is unknown and possibly incalculable.

### **Money laundering**

Having defrauded consumers of huge sums of money and then failed to pay the relevant tax, the money is “laundered” so that it can be used to buy properties and businesses in the UK, Italy, Jamaica, Florida etc. without the true source of the money being visible to the authorities in those countries.

Laundering is a two stage process. Firstly the money is, quite legitimately, paid by consumers into accounts in off-shore havens as Jersey, Guernsey, Isle of Man and Gibraltar. However, this does not provide the fraudsters with the anonymity they want so the money is then transferred to jurisdictions which do not require the owner of the money to be publically disclosed – countries such as Panama and, the favourite , the British Virgin Isles “BVI”. The cost of transferring the money from consumer to its final destination being the very low rates of tax charged by the off-shore countries.

From Panama and the BVI the money can now be introduced into the country where the property or business to be purchased is based.

Many of the first stage transfers to the Isle of Man were set up by *FNTC* [see Page 15] - who may also have advised on the setting up of companies and bank accounts in Panama and BVI – knowing full well the purpose of these banking arrangements.

## CONSUMER PROBLEMS

### Timeshare is not **BOUGHT** it is **SOLD**

It's difficult to find a marketing process that is more anti-consumer than that used by the timeshare industry.

The industry persists in an argument that timeshare is such a complex product that it must be "explained" to prospects. But hordes of consumers report that this "explanation" takes the form of kidnapping off the street and being subject to a wearing down sales process lasting many hours. Only being released when they have signed a vague document committing them to pay substantial sums of money, possibly for ever.

No other consumer product is sold in such a heavy handed manner.

### Bait and Trap

A spider would recognise the two stage process.

#### Stage 1 - The Bait

To entice a likely prospect into a presentation with a "bait". Typically :-

- Innocent holiday makers are accosted on the street by touts with the offer of a chance of winning a big prize using a scratch card. Those that fall for this trick always find that one card is a winner. The tout then steers them quickly to collect their prize – which turns out to be at a timeshare resort or the offices of a timeshare sales agent. The tout then disappears to collect his/her £150 for delivering a prospect. The scratch card trick is now falling out of favour because so many consumers are aware of it and many local authorities are restricting street touts by licensing etc.
- "Fly/buy" promotions, whereby a consumer is offered a low cost holiday on the condition that they take "the tour" (timeshare language for a sales presentation) are now becoming more common. Fly/buy's are attractive to holidaymakers keen to save money and are often presented, on the internet or a telephone call, as a low cost rental. Sometimes the "tour" obligation is not disclosed to the consumer until after they have paid. If they fail to attend the presentation they will be charged the full cost of the holiday.
- Existing timeshare owners exchanging into another resort are fair game for the sales people – especially as they are already understand timeshare. A knock on their apartment door at 9am announces a very pushy sales person who will not take "NO" unless they attend the meeting "to explain how holidaymakers can make best use of the resort". Yet another sales presentation.
- Many developers now offer rental in their resorts primarily to provide income in the absence of owners paying their annual fees. Renters suffer the same pressure to attend presentations as do the exchangers.
- And even existing owners are not immune from pestering sales people eager to earn yet more commission. Anyone taking a holiday to relax can forget the relaxation as they need to be on their guard at all times and in all places. The poolside is a popular entrapment spot

#### Stage 2 - The Trap

The **trap** is a highly structured and choreographed sales presentation - the spiders' web. A complex operation involving many clearly defined stages with a large number of "players" akin to a stage production. With many "dirty tricks" in their armoury.

The process is designed to take a consumer through various stages from suspicion and ending with trust. Psychoanalysts who have attended such presentations report with awe the fearsome skills applied. Most presentations last at least two hours, many exceed five hours. The longest known is 9 hours 20 minutes at which point the prospects were hungry (no food was offered) very tired and mentally shattered who had to buy themselves out of the hell-hole by signing the purchase agreement. Reports of consumers being drugged; denied access to their children; having "heavies" intimidate and other oppressive tactics are not uncommon.

A sales manager once admitted "***It is possible that some salesmen exaggerate***" which must go down as the understatement of the century !

Almost uniquely in the field of business-to-consumer marketing the sales process fails to ensure that consumers have the opportunity to :-

- compare resorts – quality and suitability for their type of holidaymaking
- compare prices/value for money
- check sales claims – availability, resale values etc.
- discuss with family & friends
- obtain independent advice on the suitability of the purchase available from magazines, websites or consumer organisations.

Some **of the dirty tricks used by sales people - in addition to the lies they tell** [see Page 31]

- Lacing drinks with alcohol or Rophynol (date rape drug) leaving the consumers confused and uncertain about what is happening.
- Secretly recording the private conversation between a couple after the salesman had left the sales table – later to return knowing exactly what objections he has to deal with.
- Constantly bombarding prospects with extraneous information from all sides until they capitulate from "sensory overload" at which point their brain has switched off their critical facilities
- Getting purchasers to sign numerous pieces of paper without explaining what they were signing or allowing them to read the paper - "Its nothing important" !!. It is ALWAYS important !
- Denying a couple the chance to check on their children in the crèche until they signed.
- Publically embarrassing a couple "So are you saying you cannot afford a measly £5,000" in a loud voice for all to hear.
- "Don't bother taking a copy of the agreement with you, we'll send it on to your home" which arrives after the cooling off period has expired.
- Illegally taking a deposit during the 14 day cooling off period. If the consumer cancels within the 14 days the trader keeps the deposit on the pretext that the money was payment for the accommodation that was given as a "thank you" for signing.
- The salesman provides a pre-addressed and pre-stamped envelope to a purchaser to make it easy to cancel – in the hope that it will not be sent by Recorded Delivery so that receipt can be denied.

The **Office of Fair Trading** report in 1990 referred to:-

- Aggressive and deceptive behaviour of sales canvassers
- Sales staff trained in high pressure selling techniques which seek to control buyers behaviour and suppress rational decision making
- Incomplete, misleading and untrue information

**Not much has changed in the intervening 22 years !**

## Vulnerable consumers

As it became increasingly difficult to make sales, fraudsters have been targeting more vulnerable consumers. In particular the elderly and those with little or no understanding of financial matters. Exactly the groups that the more recent consumer protection laws are specifically designed to protect.

Consumers in their 70's and 80's are persuaded to buy for the benefit of their children only for their children subsequently making it very clear that it was the very last thing they wanted.

## Timeshare Sales Professionals

Sales people are professionally inducted into a highly orchestrated process. Tightly scripted; Intensively trained; daily rehearsed. Anyone who deviates from the party line is referred to the Clumpers for "correction"

## "Clumpers"

The main task of clumpers (a uniquely timeshare industry occupation) is to ensure employees comply with the instructions of their masters. Clumpers are principally active in Spain and the Canaries but have occasionally been involved in sales operations in Germany and the UK.

Traders agree amongst themselves which streets are to be worked by their touts. Any tout who transgresses will be warned off by the Clumpers of both their employer and the employer whose street he has dared to trespass on.

Sales people failing to keep to the script when dealing with consumers or employees who have appropriated company information (sales databases etc.) for their own purposes will be referred to the Clumpers.

Correction comes at three levels;-

1. A "warning" administered with the Clumpers fists. The subject is usually able to return to work within a couple of days.
2. A "slapping" where fists, boots and baseball bats are used to put the offender off work for at least a week
3. A "severe slapping" where the result is hospitalisation for a number of weeks. In some cases a severe slapping has gone too far resulting in the offender disappearing, never to be seen again. The deep ravines in central Tenerife, and the wild hinterland behind the Costa del Sol being perfect hiding places for the charred remains following an over-zealous slapping,

Victims of these beatings seldom report them to the authorities because they know the next time would be worse; their earnings potential if they toe the party line is very good and many are working illegally. A Spanish industry observer commented in 2008 that a quarter of all sales people were unable to return to their homelands because of previous misdemeanours.

In some regions the Clumpers are the main source of drugs often using denial of supply as an enforcement measure.

Some Clumper groups also make a good living out of "protecting" timeshare developers. For a weekly cash bung, the Clumpers agree not to smash up their sales offices. Developers seldom fail to make this payment having once seen the damage – both physical and to their selling activities - caused by non-payment. This gangland activity seldom surfaces in the media.

2% - 3% of money received from consumers goes to pay for "protection". Universally paid in brown envelopes.

The brutal killing of Billy & Flo Robinson in 1997 (covered in detail by ITV) was, at the time, put down to a severe slapping for a breach of a timeshare related offence. Although Billy & Flo were major marketers of timeshare in Tenerife some aspects of the murders suggested that their deaths may have been a drugs related execution. The police failed to find any culprits and the matter was quietly dropped.

There have been no reports of consumers being physically harmed although a great many have reported that the presence of "large" men at the door of the sales room was very intimidating. And an obstreperous customer may be "walked" out of the sales room, his feet six inches off the floor !

And on a few occasions the more persistent objectors have been shown a hand gun in order to discourage their complaints ! A favourite trick of *John Palmer* [see Page 16]

In the early 2000's it was estimated that there were nearly 200 Clumpers operating in the Canaries and roughly the same number on the Costa del Sol. But in recent years the level of security has dropped as sales activity declined leaving many of the Clumpers without employment – no doubt now to be seen outside the less salubrious nightclubs of Tyneside or Tangier

## Misrepresentation and Fraud

***"People marketing timeshare are slick. They are not afraid to lie, cheat or steal to make a sale"***  
National Journalist.

Conservative estimates are that some 70% of timeshare buyers have been the victims of misrepresentation and/or fraud at some time during their timeshare experience

### Misrepresentation

Making false or misleading statements to obtain a sale is an almost universal practice within the timeshare industry.

Salesmen/women are trained, and handsomely rewarded, to tell lies. A convincing blagger could, in the "good old days", earn £100,000 a year (no tax to pay !) and his manager approaching £250,000 (again, tax free !)

The most common misrepresentations are:-

- “You can go anywhere in the world, at any time you want”. This is very seldom true as numerous complaints about “lack of availability” demonstrate.
- “This is a good investment, you can expect to get all your money back, and perhaps make a profit, when you come to sell.” Even in 2011, with resale values at rock bottom, salespeople were still knowingly making this false claim.
- “The annual fees are controlled by the owners”. Seldom true! A survey in 2005 showed that only 29% of resorts are truly run by the owners with the other 71% directly or indirectly controlled by the developer, who decides on the level of annual fees. [see Page 39]
- “You can exchange your January week for a week in high summer through RCI” at a time when everyone in the industry knows that getting any exchange through RCI is difficult let alone an “up-lift”. A problem which an on-going legal claim is addressing.
- “We will buy back your week after two years” or “We will have a resale programme in a couple of years time” when no such programme has been set up or even envisaged.
- “You are joining an exclusive club” when a large number of resorts now rent accommodation to the general public. Some resorts have established populations of locals in permanent residence with their washing hanging on the line

Had the consumer been aware of the truth they would not have bought.

Purchasers walk away from a sales presentation believing that they now own a valuable asset. But, perhaps ten years later, when their holiday pattern has changed or they urgently need some money they put their ownership on the market only to discover to their horror that nobody is interested in buying. It is entirely worthless.

At that point they realise that :-

- they were conned ten years ago
- their holidays have cost them substantially more than they had been promised [see Page 41]
- they, and their children, have an obligation to pay annual fees for a very long time into the future, possibly in perpetuity.
- they have nothing to sell for that urgent cash need.

AND they have probably been scammed by a resale fraudster because they believed that the price offered was reasonable.

All because of the lies told by the salesman ten years ago

## Fraud

Drawing a line between misrepresentation and fraud is difficult. Both involve the “intention to deceive for the purposes of gain” In this report we have labelled dishonest practices which are clearly un-related to the purchase of timeshare as a holiday product, as being fraudulent..

### The “Investment” fraud

The investment fraud has netted the traders (and their bankers) between £200 - £225 million taken from 8,000 – 10,000 victims

This fraud involves consumers being persuaded to buy a number of timeshare weeks, not to use for holidays, but as a financial investment to either:-

- Give them a substantial profit at a future sale – two years is the often quoted time period
- OR give them regular income from the renting out of their “investment” A “buy to let” scheme..

Less than 5% of the victims of the investment fraud have received any return from their investment.

This fraud is based on consumers lack of knowledge of the resale values of timeshare weeks.

They are easily led to believe that buying a block of, say 7 weeks, would result in that block being sold in not more than 12 - 24 months to generate a capital profit of 15% - 25%. After the 12 – 24 months, when no sale is made, many investors continue to believe the stories of “the resale market will improve - just give us a few more thousand pounds for a much more saleable block of weeks” . For some this story repeated over many years (the longest known is 19 years) leaving the consumer stuck with un-saleable weeks and the obligation to pay substantial annual fees in order to keep the profit opportunity alive.

Investors who financed the investment with a loan from bank were promised that the resale would take place before any payment had to be made to repay the loan (because the loan had a 12 month repayment holiday) . When the resale failed to take place the consumer was also stuck with a loan at the exorbitant APR of 19.86% which was more than the promised yield from a sale !

It was common for investors not to be given an ownership certificate “to make the resale easier and quicker” which enables the developer to double (or, in one known case, triple) sell the same apartment/week. A blatant act of theft. .

And there have been reports that the developer rented out “investment” weeks knowing that they were not to be used by the owners. Although the owner was paying the annual fees they received nothing from the rental. Yet further theft !

The arch exponent of the investment fraud is *Silverpoint/Resort Properties*, Tenerife

Between 6,000 & 7,000 consumers have, over the past 19 years, been victims of *Silverpoint/Resort Properties* with total amounts lost exceeding £150 million. The average “investment” is around £22,500 but some consumers parted with over £200,000 – the largest known is £246,000. Many used bank loans which would easily have doubled their cost.

Although *Silverpoint/Resort Properties* was probably the first to start the investment fraud (and almost certainly the most successful) they were soon followed by others in Tenerife such as *John Palmer* (convicted of timeshare fraud in 2002), *Regency Resorts* and *Palms Golf & Country Club* before spreading further afield to Majorca (*Altres Vacances*), Madeira (*Regency Hotels & Resorts*), Malta (*Azure Resorts*) and to mainland Spain. .

Four of the investment fraud companies are (or were at the time) members of *OTE/RDO* who had a Code of Ethics which explicitly banned the sale of timeshare “as an investment”. But *OTE/RDO* chose to turn a blind eye to the breach of their Code when they were reported.

When challenged, traders often explained away the fraud as the activity of a “rogue” salesman. But the widespread, systematic, scale of these frauds are clearly the result of a corporate decision to act fraudulently and to train sales people in the process.

### **Other “investment” schemes which are possibly fraudulent**

There is a very fine line between the “investment” fraud and the “buy to rent” (and similar) holiday property schemes operated by other timeshare operators such as *Club la Costa* and *Seasons Holidays*.

Investors are persuaded to purchase a whole apartment/lodge – in the price ranges £100,000 to £250,000 - on the promise that rental income will provide a healthy annual return. But the hazards of these schemes are:-

- The rental is managed by the scheme operator who may not achieve the promised income and may "do a runner" after a few years as *Altres Vacances* did in Majorca.
- The purchase price is often double (or more) the open market value of the property.
- There is no guarantee that a sale can be made at the end of the period (usually 10 or 15 years) at any price, let alone a price which returns their original investment as timeshare owners have found out to their cost.

A number of "fractional" schemes also contain many of the characteristics of an investment fraud. Only time will tell !

### The "Upgrade" scam

The "upgrade" scam has prevailed from the inception of the industry. Owners find, on their first holiday, that the promises made about quality, availability etc. are not true. Frustrated, they are then persuaded to pay more money to get what they thought they had bought originally. Some owners have been "upgraded" a number of times resulting in them paying twice or more the original price just to get what they had initially bought,

Some developers (typically *Club la Costa*) have adopted the upgrade scam into their standard marketing procedure by requiring a purchaser to take their first holiday at a specific resort so that they can be "up graded" [see Page 12]

### The "Advance Fee" fraud

Around a quarter of a million owners have been caught in one of the advance fee frauds. Many having been caught more than once.

The advance fee fraud has two major threads:-

#### 1. The non-existent "Resale" service.

A timeshare owner is telephoned with a promise that his timeshare or holiday club membership can be sold or already has been sold. All the owner has to do is pay a fee (registration; advertising; legal; security bond etc. etc.) to release the sale proceeds to them. The owners pays and hears no more. Or is led to believe that the sale has gone through and they are no longer owners only to be pursued by the resort for payment because the transfer of ownership had not taken place. .

#### 2. The fictitious "Cash Back" promise

A timeshare or holiday club owner is contacted with a promise that all the money paid to buy their timeshare or holiday club membership can be recovered by joining a compensation group. They pay a fee to join the group - and hear no more.

Sometimes the victim is invited to go to the offices of the company – either locally in their own country or in Spain etc – to make the agreement "face to face". This gives the fraudsters the opportunity to do a hard sell which increases their chance of making a deal for a lot more money that would have been possible in a telephone conversation or two.

Fraudsters are very persistent with some owners receiving 2 or 3 calls every day !

The success of these frauds can be attributed to :-

- Owners continuing to believe that their ownership has a good value when it doesn't. Still remembering what they were told when they bought "You will get all your money back when you sell"
- The large number of owners who want to get out of ownership..

The amount stolen is anything between £400 and £15,000 but some owners have fallen for frauds a number of times (the record probably being held by a mature gentleman in Brighton who paid just over £36,000 to 28 fraudsters and still owns his, now totally worthless, timeshare)

The Advance Fee fraud has yielded the thieves close to £1 billion.

### The "Holiday Club" fraud

A club only missing one vital ingredient – a holiday !

Consumers initially recognise little difference between ownership of a timeshare and membership of a holiday club. Sales techniques are identical; the amount charged for memberships are in the same ball-park, only the product appears marginally different.

A timeshare owner gets the right to use "ascertainable" accommodation - a week or points to book a week in a resort or range of named resorts. The holiday club member simply gets membership of a travel agency scheme which promises to be able to book accommodation at heavily discounted prices worldwide. Promises which are almost always false.

Selling of holiday club memberships usually start with the same "bait" as the advance fee scam "we can get you out of your unwanted timeshare" usually ending up with the victim still owning his, unwanted, timeshare as well now owning an unwanted holiday club membership – and being many thousands of pounds the poorer in the process.

Over 50 holiday clubs have existed over the past ten years. Some were bogus having only having very brief lives but the bulk of victims have been in the schemes run by *Garry Leigh* and *Peter Utal* [see Page 17].

The total amount stolen from consumers in the holiday club fraud is estimated to be £2 billion over the ten or so years of its existence.

Holiday club operators have systematically breached the requirements of the Consumer Protection Regulations but the new (2011) Timeshare laws should make it more difficult for them to operate in future.

As the demand for sales staff in the timeshare industry declined many ex-employees transferred over to the advance fee and holiday club frauds where their confidence trickster skills are still in strong demand.

### Fraud on a fraud on a fraud !

It is not uncommon for a consumer to be conned multiple times in series of different frauds.

Typically they will have originally bought a timeshare only to find that the sales promises were false,

Along comes a "rescue" in the shape of a holiday club membership with the promise that the timeshare will be taken off their hands. They pay the rescuer but many months later the consumer finds that they still own both the original timeshare and the holiday club. But a telephone call promises to resolve the whole problem by getting them out of both ownerships. They pay a few thousand pounds – and then silence !.

Still owning the timeshare and holiday club, and a few thousands poorer, a further rescuer offers the opportunity to join a group to get all their money back. And there goes another few thousand down the drain. The original timeshare may have cost £10,000 but a further £10,000 to £15,000 has been lost in attempting to get rid of it. And they still own, a probably worthless, timeshare !

### Identity fraud “ID”

There are indications that a number of timeshare fraudsters are also linked to ID fraud .

When asking consumers for the advance fee payments some also ask a number of questions which are irrelevant to the transaction but are of a sensitive personal nature including bank account details; mother's maiden name (the most common bank security question) etc. as if they are gathering information to sell on for ID fraud purposes.

### Fraudsters - cleverer still

The frauds have become even more sophisticated in recent years.

- One involves a high quality debt collection letter apparently from a legitimate agency with the same logo, typestyle etc. The only give-away is that payment has to be made to a personal account in Eire ! The real debt agency was alerted to this imposter.
- Another uses a real Spanish tax authority form (which has been digitally “cleaned up”) showing the sum of £1,650 IVA (VAT) being required to release the sum of £32,000 to the named timeshare owner. The give-aways were the use of the £; a mobile telephone number and an address in a residential area of Malaga – none of which would have been obvious to the intended victim.
- To provide credibility a cold caller invites the victim to check them out with the “Fair Trading Service” or the “Timeshare Authority” (neither of which exist) and provides the relevant telephone number which rings on the desk of a colleague of the cold caller !.

### Fraudsters use of Owners Databases - Mailing Lists

Both the advance fee and the holiday club frauds rely on the fraudsters having full details of timeshare owners. Victims of the fraud are always surprised when the fraudster knows their telephone number and is able to tell them exactly what they own.

The reason is simple – the fraudsters are using stolen owners lists.

Whilst many lists come directly from individual resorts liberated by a departing salesman in cahoots with the girl who enters the data, the main lists have been stolen from *RCI* - at least twice in the past 12 years ! *RCI*, not unexpectedly, deny “losing” their lists but the author was offered a list in 2003 the sample of which was clearly sourced from *RCI*.

These lists are milked by the original thief and then sold on, often as multiple copies, for around 10 Eurocents a name. Some victims get calls from a dozen or so fraudsters within a period of a month as each thief tries to use the list quickly before someone beats them to it.

The scale of data “leakage” is immense. Traders are failing to take even the most elementary precautions to stop owners details being stolen exposing consumers to frauds on a massive scale. The data protection laws throughout Europe, with very substantial fines for non-compliance, should enable authorities to stamp out this lifeblood of the advance fee fraudsters.

## Black Lists of rogues

Lists of fraudulent companies exist in the UK, France and Germany with a total number (excluding duplicates) of named businesses being just under 4,000. The UK list is unpublished but those in France and Germany are readily available on the Internet.

## Absence of Ownership democracy

Claims that timeshare ownership is democratic are 70% false !

The majority of timeshare resorts are controlled, either directly (as a "Proprietary Club") or indirectly (as a "Members Club") by the developer. This enables the developer to falsify management accounts, amend constitutions and generally manipulate the timeshare owners for greater profit.

Only 30% of timeshare resorts actually operate democratically with the owners themselves deciding on the way in which their resort is run. The key characteristics of a truly democratically run resort are:-

- Absolute minimum number of complaints
- Reasonable annual fees
- High level of resort ownership and utilisation
- An in-house resale programme
- Well attended AGM's with no discord

## Developer control of Owners Committees.

The most common structure for a committee in a Members Club is three ordinary owners plus two management nominees. Ostensibly this would give the owners control. But looking more carefully at the individuals who make up the owners on the committee it is common to find an owner who has been wined and dined and given free holidays to ensure that they vote with the management.

There are some "professional" committee members who are paid by traders to appear to be on the owners side when they are not. *Norma Hartshorn* (dec'd) and *Harry Taylor* both of whom were/are paid, through TATOC, by the developers, and *Fred Elliott* has served for many years on a number of club committees being a well rewarded puppet for *Silverpoint/Resort Properties*.

The developer of *Akeld Manor* resort, England, unilaterally (possibly illegally ?) changed the Club constitution to deny Members their voting rights. So the 83% of Members who said that they wanted to close the resort are unable to do so.

## Falsification of club/resort management accounts

Owners have often been suspicious that the accounts presented to them are false. This suspicion is fuelled, in part, by substantial differences in fees charged at two different, but similar quality, resorts. One resort charging £900 a year for a week whilst another resort in the same region and with the same quality rating only charging £400 for the same week and apartment size.

When the owners eventually – after a long battle - took over control of the management of *Loch Rannoch Highland Club* from *Macdonald Resorts* they found that the true cost of running the resort was some 32% less than *Macdonald* had been claiming for many of years. *Macdonald* had been stealing approx. £125 every year for every week owned! If *Macdonald* had carried this thieving practice across all nine of their resorts the amount stolen from owners would be close to £3 million each year. Although *Macdonald* was actually caught with their fingers in the till many other management companies have got away with “adjustments” to their accounts for their own benefit.

*Beverley Hills* (part of *Silverpoint/Resort Properties*, Tenerife) still managed to achieve a profit of almost €1 million in 2011 even after reducing the fee rate by 31% indicating that the previous overpayments were immense.

Auditors, when challenged on specific details of accounts which appear to be anomalous have fallen back on their standard excuse that they have relied upon the management to provide the information. Whether or not the auditors have colluded in the falsification is therefore not clear.

The total stolen from owners by the falsification of accounts is estimated to be in the range £80 to £100 million every year. A figure that is still holding up despite a major reduction in ownership numbers because fee rates have been increased to counteract the smaller number of owners paying.

### **Fiddling votes at General Meetings.**

Vote rigging is known to have taken place over a number of important issues. Some decisions were made in General Meetings that were clearly diametrically opposed to the best interests of owners. The majority of owners would simply have not voted for them.

In June 2000 Members of *GVC* (now *Diamond Resorts*) voted in favour of restricting the resale of their points - a “turkeys voting for Christmas” scenario. The company stated that it had not voted on the matter but it later transpired that company employees had been made Members just for the day and told to vote in favour of the restriction.

In other reported cases the number of proxy votes stated by the Chairman bore little resemblance to the actual vote count – again resulting in a decision in favour of the management. Some owners complain that they never received any notice of meetings whilst others were angered at the refusal to accept proxy votes.

Suggestions that the Electoral Reform Society be invited to provide independent supervision of the voting process have been strongly resisted by compliant Committees.

### **Heavy handed suppression of valid criticism**

Owners who have attempted to shed light on malpractices have been physically ejected from General Meetings for asking the “wrong questions” and some have had their membership terminated without any recompense for concocted “activities contrary to the Constitution”.

### **Blocking access to Membership lists.**

One way in which an un-democratically run club can avoid pressure, including legal actions, by disenchanted owners, is to deny individual owners, or small groups of owners, access to the full owners database. In a “Members Club” this denial is a breach of members natural rights but developers know that it would take an expensive court case to force disclosure – a cost which would discourage even the most tenacious of owners.

## Annual Fees

Now a major battleground between trader and consumer

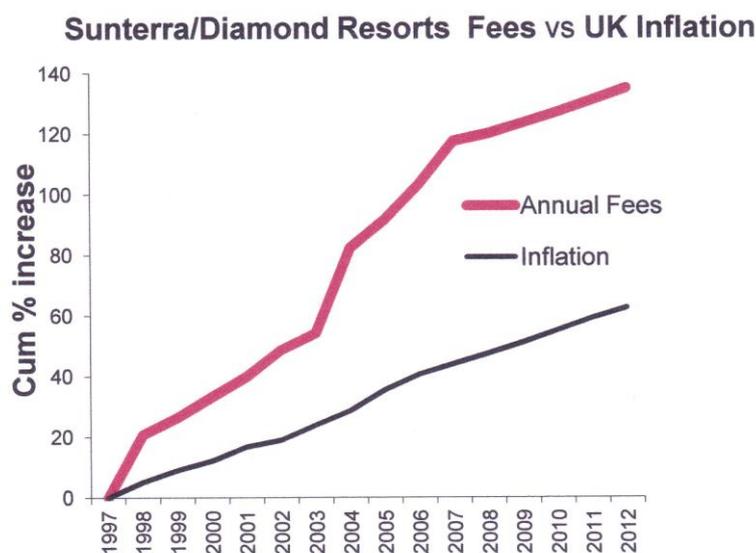
In addition to paying an initial capital sum for the “right to use” timeshare accommodation, owners are also required to pay an annual fee. This payment must be made every year whether or not the owner makes use of the accommodation or uses it for exchange purposes. The fee may be called “Management Fee” or “Maintenance Fee” or “Service Fee”

The annual fee is to pay all the recurring costs of managing and maintaining the resort such as cleaning, laundry, gardening, local taxes, insurance, reception and repairs/renewals etc. which are essential to the continuing enjoyment of owners. .

Democratically run resorts [see Page 37] employ independent management companies to provide the day to day running of the resort but un-democratic resorts mostly have a management company that is a subsidiary of the developer often resulting in unilateral increases in their fees in order to steal more money from owners

Democratically run resorts accept that their management company should make around 15% profit on costs . In un-democratically run resorts profits exceeding 100% are not unknown. This secret thieving results in fees close to £1,000 just for one week each year. Some management companies have increased their fees two or three times faster than the rate of inflation resulting in fees rocketing from a sensible £350/week to £1,000 when the same accommodation could be rented for no more than £500.

Excessive annual fees are now the second most often quoted reason for owners wanting to get out of timeshare (the most quoted being failure to deliver the promised service). The matter of annual fee payments has now become a major battleground between developers and owners. But, because of the lack of any statutory rights, owners have very few weapons to wield and are stuck with exorbitant demands followed by threats of legal action if the demands are not met.



**Which does not make for happy owners !**

### Additional levies on owners

A growing number of resorts are not only increasing their annual fees at a faster rate than inflation but are also demanding additional charges, sometime for two or three years in succession.

These levies have ranged from a few hundred pounds in one year to over £1,000 spread over two or three years. Levies are often claimed to be for “refurbishment” or “recovery of previous losses” or some other spurious reason. Some resorts have been arrogant enough not to even bother to provide a reason !

Owners struggling to find the money for the basic annual fees find the imposition of an additional charge too much to bear and seek ways out of ownership.

And it is suspected that some levies are designed to drive owners away so that the resort can be used for other purposes. One resort, *Lanzarote Beach Club*, [see Page 17] had the gall to charge some owners over £2,000 in one year for one week because other owners had refused to pay an already exorbitant, unexplained, levy. The resort was then sold to a Russian company who then proceeded to sell the villas for outright purchase.

### Debt Collection by Traders

With a high percentage of owners attempting to get out of ownership by stopping payment the traders are now using aggressive, sometimes illegal, debt collecting practices including intimidation, harassment and extortion, simply stay in business. Typically:-

- We WILL issue legal proceedings (then not do so)
- Your home is at risk
- We will send someone round to see you (inferring a Bailiff)
- We will put a charge on your property
- You will get a bad credit rating
- We will ask your employer to pay us

And some go to extreme lengths to extract money from their owners:-

- *Shakespeare Classic Line* set up a bogus debt collection agency “4Closure” to scare people into paying. And they threatened legal action if the owner did not pay £2,900 to buy themselves out of the ownership. An example of blatant extortion.
- *Petchey Leisure* used a dodgy debt collection company “Kings Ransom” - which did not have the appropriate licence – to chase people. And they also sent a fake County Court claim to an owner. The County Court local to *Petchey* took a very dim view of this and the practice was not repeated !

Even licensed debt collectors make verbal statements on the telephone which fail to comply with the Office of Fair Trading guidelines. The effect of these threats can be devastating. Many owners, especially the mature or widows/widowers, are terrified at the thought of going to court or of bailiffs at their door, and pay up.

But, despite all the huffing and puffing of debt collectors very few owners actually get taken to court – probably less than 1% of the total number of “defaulters”

## 80% of Timeshare is Poor Value for Money

When timeshare started in the 1960's it offered self-catering accommodation of a superior standard to that offered by package holidays and (the very limited) accommodation offered for rent. But, over the years timeshare has stood still or even gone backwards as resorts started to look tired from lack of upkeep and the competition caught up and then overtook in quality terms.

There are now a plethora of websites and travel agents offering accommodation for rent which is a good match for the accommodation offered by timeshare and very often IS timeshare accommodation being rented by the developer to generate additional revenue. Rental rates vary according to the time of year whereas timeshare fees are the same irrespective of the time of year they are used and only vary according to the size of the apartment. So a direct cost comparison cannot be made between the two options.

But, taking a typical scenario it is possible to identify a clear preference:-

- *Family of four requiring a two bedroom self catering apartment for one week in Tenerife but every second year to go to another holiday destination .*
- *Allowing for a 15 year usage [the current median timeshare ownership period].*

### 1. Timeshare (self-catering accommodation only)

1a Buying from the resort using your own money:-

	£	
Capital	10,000	
Loss of interest (4%/yr)	4,200	
Residual value	NIL	
Management fees (15 yrs)	7,500	
Exchange costs (15 yrs)	2,400	
<b>TOTAL COST over 15 yrs</b>	<b>£24,100</b>	
	<b>Annual cost</b>	<b>£1,610</b>

1b. Buying from the resort using a loan at 19.87%:-

**Annual cost                    £2,100**

1c. Buying from a resale broker for £2,000 using your own money:-

**Annual cost                    £850**

### 2. Renting (self-catering accommodation only):-

2a Peak season – ie. school summer holidays

**Annual cost                    £600 - £1,000**

2b. High season - ie. summer not in school holidays

**Annual cost                    £400 - £500**

2c. Low season - ie. November through March

**Annual cost                    £250 - £400**

Renting accommodation is by far the best value for money except during main school holiday periods when buying a fixed week of timeshare on the resale market is cheaper. Renting is even more beneficial if you occasionally forego a holiday (paint the spare room, stay with friends etc. !) when you would still have to pay the timeshare annual fee whether you use the accommodation or not.

## Getting Out of Timeshare

- c. 370,000 European owners want to get out of their timeshare .
- c. 330,000 have already stopped paying their annual fees having “walked away”

### Most common reasons for wanting to get out:-

- cannot get the promised holidays and are now using other holiday options
- cannot afford the annual fees – limited retirement income being a major factor.
- no longer able to travel due to age and/or infirmity
- changed their holiday patterns as children have left home
- recognise that they conned in the first instance and have never used what they bought – called “no shows” in timeshare parlance..

The average age of timeshare owners in 1995 was estimated to be fifty now, 17 years later, it is close to sixty. Many owners are now in their 70's and 80's and unable to travel, living off a basic pension with children who definitely do not want the liability of owning a timeshare . Yet they are still being aggressively pursue to pay the annual fees for something they cannot use and simply cannot afford,. Even industry spokesmen admit that they have an “age” problem as owners go into retirement and are not being replaced by younger owners.

More than 70% of owners who contacted *TATOC* or the *Timeshare Consumers Association* were seeking a way out of their ownership.

### Straw Polls of owners

Recently a number of traders carried out informal soundings of their owners. Not all disclosed the results but of those that have:-

- (Name provided in confidence) – 47% “wanted to terminate their membership immediately ”
- *Akeld Manor* – 83% said they wanted “the closure of the resort”
- *Macdonald Resorts* – some 70% wanted to end their ownership “in the near future”

There is no reason to believe that the un-disclosed results are any different from those disclosed.

**“Half of UK owners want to get out”** Simon Jackson, CEO, Macdonald Resorts, 2010

**There are only two options for getting out of ownership:-**

### 1. Transferring ownership by selling.

**An active resale market is a reliable indicator of a healthy industry. It's absence demonstrates an industry with a terminal illness**

The resale market is the only natural market in the timeshare business. Instead of consumers “being **sold to**” by resorts using high pressure sales techniques, consumers who are actually looking to buy a timeshare can shop around in the resale market to find the specific timeshare they want, get honest advice and bargain on the price.

And this secondary market provides the only effective means for owners to extract themselves from an unwanted ownership without a lot of aggravation and distress.

In 2000 there was a buoyant secondary market with 32 brokers operating in the UK (and a further 10 or so on the Continent) all making a good living from commissions earned on sales made on behalf of owners. Many owners were able to recover a modest proportion of their original purchase by selling to others keen to join the timeshare bandwagon at reasonable prices. An estimated 20,000 resales were concluded every year in this buoyant period.

Twelve years later it is a very different story.

The resale market is now a shadow of its former self. The number of active brokers in the UK has fallen from 32 to 7 and the volume of sales in 2011 was estimated to be around 5,500 – only 25% of the figure in 2000. The 2012 figure is expected to be even lower.

Two of the remaining brokers earn substantially more from charging owners up-front payments than from commission on sales – despite up-front payments being illegal (*Visions of the World* and *Timeshare Computer Link*). And *Travel & Leisure* income from sales commissions is only a fraction of their income from “advertising fees” resulting from their extensive national press advertising..

### **An Ocean of Unwanted Timeshares**

The largest timeshare broker in the UK disclosed (March 2012) that it had 167,000 weeks on its “for sale” register and another broker is known to have just under 100,000. Adding in the number registered with the other 5 active brokers it appears that c. 350,000 owners have asked brokers to sell for them.

Excluded from these figures are the large number of owners who:-

- have only registered their weeks for sale with their own resort and not with a broker
- are not aware of the existence of the resale market
- are victims of the “investment” fraud, still relying on the trader to make the resale
- believe that attempting to sell is a futile exercise and have not bothered registering with a broker
- have been caught in a resale scam and are now wary of doing business with anyone

With only c. 3,000 sales now being made by brokers the chances of any owner actually selling are around 1 in 400. Owners with low season fixed weeks; floating weeks or points have almost no chance of making a sale unless they own in one of the top ten resorts. A fact that dishonest brokers fail to tell those registering with them

*eBay UK* recently had 709 timeshares on offer. Two had bids of £0.01, one of £0.99 and one of £100 (a school holiday week in Tenerife). 705 (99.5%) had received no bids. And many owners are offering their timeshare “free to a good home” and not getting a single bite.

### **Developers interfering with ownership transfers.**

Some developers try to block, or at least delay, sales made by resale brokers – especially if the consumer has bought from the resort and then cancelled (within the cooling off period) when they realise the brokers price was only a fraction of the resort price. *Anfi*, Gran Canaria, is probably the worst offender by either refusing to arrange the transfer or making a transfer charge of over £1,000 when the true cost is no more than £100. *Macdonald Resorts* also employ this form of illegal interference.

## 2. Walking away from Ownership .

Being unable to sell leaves only one other option – trying to relinquish ownership by stopping annual payments.

A limited number of resorts will allow owners to relinquish their ownership if they satisfy any of the following criteria (which the owner has to prove with certificates etc.) :-

- Over the age of 75
- Bankrupt or otherwise financially incapable of paying the annual fees
- Major illness stopping them travelling

The problem for owners is compounded by many timeshare ownerships being in perpetuity (principally Spain, France and Scotland) or at least for a great many years – 80 years being common. Meaning that the annual fees may have to be paid by the owner, their children and their children's children for ever ! A horrific thought.

### Some tricks used by owners to stop paying.

- Transferring ownership into a limited company and then dissolving the company. A knowledgeable person could do this for no more than £25 but some resorts now refuse to transfer into a limited company.
- Transferring into the name of a bankrupt whom the resort are unlikely to pursue
- Moving house and not telling the resort. But sharp debt collectors have ways of finding such people.
- Transferring into a false name at a false address. But resorts now carry out checks to ensure that the new owner does exist at a real address. Called the "Viking warship" technique by the trade.
- Transferring into the name of a foreign national at a temporary address. (Algerian cleaners working temporarily in Spain are a popular choice !)

### Charities

A few years ago charities were keen to take over unwanted timeshares which they sold to generate income. But with a dearth of buyers, charities are no longer interested in receiving a timeshare as a donation.

### Industry response to the downturn.

As the reduction in income from sales and annual fees really began to hurt developers responded with a mix of intelligent and panic measures.

### Exit Programmes

Some traders have recognised the need for a long term solution to a long term problem – the rapid decline in ownership. These more enlightened traders are actively downsizing their resorts to bring accommodation availability into line with owner demand. In some cases they are encouraging owners to transfer from one apartment to another to free up an apartment (or an apartment block) for residential sale. In other cases the traders are changing their business model to mixed.. Or two resorts agree to consolidate their owners into a single resort.

And as a possible short term palliative, traders rent out unused accommodation. It is estimated that some 20% of accommodation once dedicated to timeshare use is now in the open rental market A percentage that is rapidly increasing year on year. *Diamond Resorts* disclose in their accounts that 21% of their income in 2011 (up from 12.5% in 2010) was from rental.

Whilst these changes may not be popular with some owners they do provide comfort for those owners who want to continue that their resort should remain financially viable for some time into the future.

### Short term money grabbing schemes

But more short sighted, traders are simply putting off the evil day offering schemes to release owners provided that they pay a substantial sum. A payment which generates a short term improvement in cash flow for the trader but leaves the basic problem of reducing ownership unresolved.

Consumers who paid loads of money to get **into** timeshare are now having to pay loads of money to get **out** !

Typically *Spice/Aroma* are being employed by resorts to clear out their ownership in order to free up the property for sale or other uses. For the sum of around £4,000 *Aroma* offer to release the owner from all future liabilities and they also allow the owner to then cancel the *Aroma* agreement giving 6 months notice at any time. This is presented in a manner which is blatant extortion – “pay us £4,000 or the resort will take you to court for non-payment of annual fees” And *Compass Club* offer a similar package into membership of a “multi-resort” club.

Other money making tricks to improve cash flow in the downturn:-

- Recommending a specific resale broker to register their week(s) for sale. The benefit to the broker is an, illegal, up-front payment and the benefit to the developer is the continued annual fee income whilst owners hopefully await a sale – which mostly never materialises. Typically *Diamond Resorts* link with *Travel & Leisure*, which some observers consider is a criminal conspiracy, and *Macdonald Resorts* link with *Worldwide Timeshare Hypermarket*.
- Allowing their premises to be used – for a fee - for scam holiday club marketing companies or re-sale “rescue” frauds. Selling membership of a holiday club is very much easier if the prospect is actually in a holiday resort. !

### Management Companies avoiding the problem

There are now indications that some independent companies employed by clubs to manage their resort are terminating their contracts because of the increasing difficulty of making a profit whilst retaining annual fees at a level that will retain owners. Without professional management the resorts are likely to collapse.

## Consumer Protection

Consumer protection law has greatly improved over the past 10 years but failure to enforce good laws still leaves consumers exposed to deception and trickery.

### Timeshare Laws

Following the report in 1990 by the Office of Fair Trading, London, which was highly critical of the sales practices in the timeshare industry, the Timeshare Act 1992 was passed in the UK.

This law required the seller to disclose, in writing, key features of what was being sold and required the seller to provide a minimum 14 day cooling off period.

Subsequently a similar law was introduced in 1998 throughout the EU with the added requirement that no deposit may be taken by the seller during the cooling off period, which was set at a minimum of 10 days

Further widening of the disclosure requirements and the inclusion of holiday clubs and timeshare in boats plus a change to a 14 day cooling off period and an absolute ban on the taking of a deposit was introduced in 2011 for implementation throughout the EU.

But these laws only regulated the sales process and completely omitted any regulation of the ownership period – an omission which was severely criticised by consumer groups as ownership problems had become the major area for consumer detriment.

### **Other Relevant Laws**

Many other laws now exist which should provide adequate protection for consumers at the mercy of timeshare traders. Most are technically effective in holiday regions most frequented by Europeans

#### ***Unfair Terms in Consumer Contracts “UTCC”***

provides consumer protection against the contracts produced by such as RCI, Diamond, Club la Costa etc. which are heavily biased in favour of the trader. UTCC may also offer a solution to the iniquity of ownership in perpetuity in that the period is longer than is reasonable. However the UTCC are neither retrospective nor does it provide any compensation for consumers.

#### ***Consumer Protection Regulations “CPR”***

effectively replace the Fraud Acts in making all forms of misleading statements (and omissions) illegal. Fully applied this law could totally eliminate all cases of misrepresentation and fraud in the industry. A growing number of actions being taken by UK based Trading Standards are based on alleged breaches of the CPR's

#### ***“Doorstep” Regulations and the “Distance Selling” Regulations***

principally provide a cooling off period for sales made in a consumers home or sales made on the telephone or Internet. . Very few sales of timeshare are made in the home but the Distance Selling regulations can provide the opportunity for consumers caught in the resale scam to get out of the contract and possibly get any money back through their card companies.

#### ***Consumer Credit Act 1974***

is a uniquely UK law which enables consumers to recover money from lenders in the event of misrepresentation or breach of contract by a trader. This Act has been used extensively, with considerable success, by consumers who suffered from acts of misrepresentation having paid (possibly only in part) using a credit card or who had taken out a “linked” loan.

A number of compensation groups in the UK are using the Consumer Credit Act 1974 as the basis of their claim against the bank who lent for timeshare purchases [see Page 22]

s75 of the Consumer Credit Act 1974 is heartily disliked by UK based credit card companies and banks who find themselves paying out large sums to consumers defrauded by companies in Spain using trader credit facilities provided by Spanish banks.

### **Law Enforcement**

Whilst there have been very few problems with enforcement of the timeshare laws in the UK, and Germany, many traders in Spain, the Canaries and Malta have totally ignored the law over a period of many years with little challenge by the enforcement authorities So consumers find themselves at the mercy of traders who do not provide a cooling off period and who demand a substantial deposit, effectively locking them into the purchase.

Anecdotal evidence of corruption of senior police officers, top local authorities and tax inspectors in Spain and the Canaries have persisted for many years. Officials are persuaded to turn a blind eye to transgressions in return for personal benefits. These bribes are in cash or, more often, free family holidays, guarantees of well paid jobs on retirement, contributions to a local church or gifts of cars and household goods. The few publicised investigations into this alleged corruption supports the view that the problem does exist but the scale is unknown.

### Consumer Advice

The quality of advice given to consumers with timeshare problems is patchy.

Apart from the *Timeshare Consumers Association*, *Which? Legal Services* appear to provide the best quality practical advice followed by a number of Trading Standards offices and a few Citizens Advice Bureaux

The limited number of lawyers who have made it their business to understand the timeshare business and laws do provide a good service but some lawyers have been known to provide disastrously poor and expensive advice because of their lack of understanding of the way the industry operates. Many lawyers run a mile at the very mention of "timeshare" regarding it as a most difficult industry to deal with.

Advice and comments on websites range from good to downright dangerous ! Dangerous due to a total misunderstanding of the industry or with the specific intention to mislead readers. A Google search for "How do I get out of timeshare ?" yielded 20,000 results. An inspection of the first 100 showed 2 to provide honest advice and the other 98 were enticements to a resale scam !

The advice given by the two trade bodies, *RDO* and *TATOC* is wholly biased towards benefitting their sponsors resulting in their advice being diametrically opposed to the best advice for the consumer. Owners are often advised to continue paying annual fees when there may be no legal obligation to do so.

And the advice given by the *Office of Fair Trading* and the *European Consumer Centres* is far from perfect being too generalised and failing to address the specific circumstances applying to each consumer.

But an increasing number of reports of *OMIC* (Spanish equivalent of Trading Standards) helping deceived consumers is an encouraging move in the right direction

### Consumer Redress.

None of the consumer protection laws entitles a consumer to automatic redress following a breach of the law. Recovery of money is still reliant on the Consumer Credit Act 1974 or the card companies Voluntary Codes or the much more costly and uncertain option of civil court action.

This weakness is routinely exploited by traders, especially in Spain, who blatantly break the law in the safe knowledge that the chances of them having to recompense a victim is slim. Although this attitude may be changing as consumer compensation claims increase.

### Consumers retaliate !

#### Compensation Claims

With a number of UK lawyers now willing to operate on a Conditional Fee Agreement ("no win, no fee") basis it is now possible for sizeable groups of consumers to join together to litigate for compensation against traders or banks at little or no cost or risk to themselves.

A series of individual compensation claims have also been established in Spain but without the benefit of the “no win, no fee” arrangement which are not permitted in Spain.

Groups known to be claiming compensation (July 2012) :-

COUNTRY	CLAIM AGAINST	TIMESHARE COMPANY
England	Barclays Bank	St Frances Marketing/Buena Viva, Exeter
England	GE Money	St Frances Marketing/Buena Viva, Exeter
England	Barclays Bank	Silverpoint/Resort Properties, Tenerife
England	John Palmer	12 resorts in Tenerife
England	GE Money	Club la Costa, Spain
England	RCI	RCI, Europe
Lanzarote	David Stirling + others	Lanzarote Beach Club, Lanzarote
Tenerife	Silverpoint/Resorts Properties	Silverpoint/Resort Properties, Tenerife
Tenerife	Regency Resorts	Regency Resorts, Tenerife
Gran Canaria	Anfi Sales + others	Anfi Group, Gran Canaria
Spain	Club la Costa	Club la Costa, Spain
England	Barclays Bank	Azure Resorts, Malta
Tenerife	Puerto Calma Group	Puerto Calma Group

Further groups are in the formation stage but a couple of leading traders who perceive themselves as likely targets for claims are in the process of setting up damage limitation actions to minimise their potential loss of revenue.!

It is expected that compensation claims by consumers will escalate in the next two to three years as experience is gained from the claims currently being processed. Generally the civil claims in the UK are being made against banks under the Consumer Credit Act 1974 which makes a linked lender responsible for any misrepresentation or breach of contract by the trader. The claims in Spain – usually a combination of criminal and civil – are mostly against persons and/or trading companies.

A small number of individual consumers have taken their own legal action against timeshare traders. Some having used the legal protection fund provided by their household insurance to pay for a lawyer. But with traders unwilling to defend a claim of misrepresentation in an open court most legal claims by consumers are settled “out of court”. to the consumers satisfaction

### Owners defence groups

Ad-hoc defence groups have been formed to enable a number of consumers to jointly defend claims by timeshare traders. The sharing of costs to employ a lawyer has been effective in a number of cases and has had the effect of discouraging the trader from taking further actions.

## Timeshare and the Media

### Not a happy relationship

The media long since recognised that timeshare as a “bad ‘un” only worthy of adverse criticism and have almost universally reported on the anti-consumer practices within the industry.

### Television

At one time TV was very active in disclosing anti-consumer practices. In the past 10 years over 60 TV programmes have exposed consumer detriment in the timeshare arena but producers are now almost totally disinterested in the subject. As one producer put it “The same old story, punter gets conned by timeshare tout. Give me a man bites dog story and we’ll run with it”. !

The almost standard format was of an ordinary couple who had paid many thousands of pounds to buy a timeshare only to find that the sales promises were not true. The trader concerned was usually invited to comment but few did, and then only in a brief written statement as the thought of having to appear to answer un-answerable questions being just too daunting !

Now “soaps” and information programmes are referring to timeshare in a derogatory fashion in “throw away” lines. Probably the most degrading of all insults !

### Radio

Radio has generally taken a rather more balanced line than TV by providing intelligent debate between traders and consumers. These debates are mostly live (as opposed to recorded as are almost all TV programmes) enabling proponents for and against timeshare to air their views in some depth.

### Press

The press continue to be the most active media continuing to expose anti-consumer practices.

Regular articles appear about distraught consumers who have suffered at the hands of those ‘nasty timeshare people’. Consumer champions routinely give vent to consumer problems with timeshare.

The only time a paper gives timeshare a good report is when a journalist is invited for a “sampling” stay at a resort and pays with a glowing reference !

### Internet

#### 1. The industry maintains a massive presence on the Internet

All the major companies have numerous websites often achieving 90% coverage of the first two pages of a Google search. Anyone looking for reliable information (as opposed to trade “puff”) needs to be persistent.

And the trade bodies (*RDO & TATOC*) finance a number of internet based “Press Services” [see Page 19] including *mindtimeshare* which regularly bats it out with its counter ego *mindtimesharetruth*

## 2. Public exposure of consumer problems on the Internet

Although there are numerous forums and blogs partly covering timeshare matters, or representing a specific group, there is now only one - *TimeshareTalk* - dedicated to general timeshare matters.

But *TimeshareTalk* confuses its readers. Whilst appearing to be generally sympathetic to the industry it carries adverts for fraudulent businesses.

### Industry response to public criticism

The industry works very hard to remove or block adverse criticism and to swamp negativity with a welter of puffs and trumpeting. Their manipulation of media coverage by overt and covert action includes:-

- Journalists' have received defamation writs (or threats of them) with the intention of stopping them publishing further adverse comments. Legal pressure was put on 3 leading UK newspapers (Daily Mail, The Mirror and The Guardian) to withdraw published statements critical of rogues in the industry. Unfortunately these writs and threats usually work ! (Journalists make their money by getting material published, not from defending spurious defamation claims)
- Internet service providers ("ISP's") are threatened with being joined in defamation writs for a website they are hosting. Even though a defamation writ would have little chance of succeeding, the ISP pulls the plug not wanting to be involved in something not of their own making. The list of internet forums that have "disappeared" is extensive including *Holiday Truths*; *TCA* and *The Timeshare Forum* as well as the infamous *Crimeshare*. Website managers have been bullied by lawyers acting for traders into removing critical articles and banning any mention of traders names. "*Resort Properties*", "*Club Class*" and "*Crimeshare*" are banned phrases in *TimeshareTalk* ..
- A BBC TV programme already in the can highly critical of *Club la Costa* was pulled when the BBC realised that *Jennie Bond*, who was a presenter on the programme, promoted *Club la Costa*.
- Writs for libel have been issued against individuals publically critical of specific traders. Three of these writs (by *Frank Chapman*, *Peter Utal* and *Bob Trotta*) were all withdrawn before trial because the trader recognised that the defences proffered would be a further opportunity to expose their anti-consumer activities if they were heard in open court.

Traders threatened with exposure of their anti-consumer practices respond in different ways.

Some, such as *Club la Costa* are thick skinned enough (or pragmatic !) to ride out the exposure, others, such as *Macdonald Resorts* and *Diamond Resorts* are much more sensitive attempting to suppress or control the criticism. Others, like *Silverpoint/Resort Properties*, go to extreme lengths to silence their critics with – usually spuriously based - injunctions and defamation writs.

## Lies, Damn Lies and Timeshare Statistics

False or misleading statistics are extensively used to create an illusion of success.

### Timeshare ownership numbers

In 2012 the European industry claimed an ownership base of 1.45 million, down from a claimed 1.6 million in 2001.

**In stark contrast the US claim 8 million owners despite having a much smaller population than the EU !**

Much nearer the truth in Europe:- .

- Number of owners claimed by the industry 1,450,000
- Number of owners being invoiced for annual fees c. 1,150,000
  - of which c. 330,000 have stopped paying
- Resulting in number continuing to pay c. 820,000
  - of which c. 370,000 are paying unwillingly
- Resulting in number continuing to pay willingly c. 450,000

The large number of owners reluctantly paying annual fees – usually because of heavy handed threats of legal action - provides rich pickings for the advance fee and holiday club fraudsters. [see Page 34]

Estimated geographic split of owners who are continuing to pay willingly:-

- UK 185,000
- Germany 125,000
- France 90,000
- Others 50,000

On average, each owner has 1.6 weeks of timeshare – a number that has remained unchanged for a number of years. This figure excludes victims of the investment frauds where the average number of weeks owned is around 6 but with some owning over 15 weeks. .

### Timeshare resort numbers

A similar discrepancy arises between claims and reality in the number of timeshare resorts in Europe.

Industry claimed number of resorts:-

- 1,452 in 2001
  - 1,312 in 2008
- a reduction of 10% over a 7 year period.

The true figures are:-

- 1,121 in 2005
  - c 1,000 in 2009
- a reduction of around 11% over a 4 year period.

The difference between claims and reality may possibly be accounted for by many resorts being part owned by two or more developers, each claiming the resort as “theirs”

With many resorts changing to mixed use (rental, timeshare, domicile, hotel etc,) any count of timeshare resorts now becomes academic. What would be much more valuable would be a utilisation count (weeks used by timeshare owners) but the industry is neither geared to carry out the necessary survey nor, more likely, willing to disclose the results to public gaze.

Very few resorts now have timeshare ownership levels above 70% with many below 50% and some as low as 30%.

Resorts range in size from 2 units of accommodation to over 300 with an average of around 60 units each having a capacity for 1,900 owners (owning an average of 1.6 weeks each).

### Sales volumes

The industry has always been noted for overstating the number of sales that it makes. Recently the overstatements have become wildly excessive.

Claimed figures:-

- Number of sales made in 2005                      70,000
- Number of sales made in 2011                      80,000

Nearer the truth (2011):-

	<u>To existing owners</u>	<u>To “newbies”</u>	<u>TOTALS</u>
• Sales by resorts	15,000 – 20,000	10,000 – 15,000	25,000 – 35,000
• Sales by resale brokers	4,000 – 5,000	800 – 1,200	c 5,500
	<u>TOTALS    c 22,000</u>	<u>c 13,000</u>	<u><b>c 35,000</b></u>

2012 sales are expected to be well down with a number of traders already (privately) reporting very high cancelation percentages.

### Exchange statistics

Use of the exchange service is declining as owners find it increasingly difficult to get any exchange, let alone one they really want. The industry claims that between 60% and 65% of timeshare owners are members of an exchange organisation and about 50% of these actually use the service each year. However these claims fail to match up with known membership numbers in the exchange organisations or with the claimed total number of owners.

### “No shows”

Between 12% and 15% of timeshare owners have never used their timeshare – many for 10 or 15 years – because they realised they had been swindled, Too embarrassed to tell their family they continue paying the annual fees because they believe that they have to. The industry call these “no shows” but the scale of this disenchantment has only been disclosed in “confidential” industry reports.

## Industry recruitment

A indicator of activity of an industry is the scale of sales recruitment. The leading timeshare recruitment agency has only three European companies searching for new sales staff. Five years ago there were dozens.

## Timeshare industry finances

The timeshare industry has been very secretive about the true scale of its business, and finances. Only two of the larger companies – *Diamond* and *Hapimag* – publish meaningful annual accounts. All the rest hide their accounts from prying eyes by the use of multiple (inter-trading) companies and/or off-shore entities.

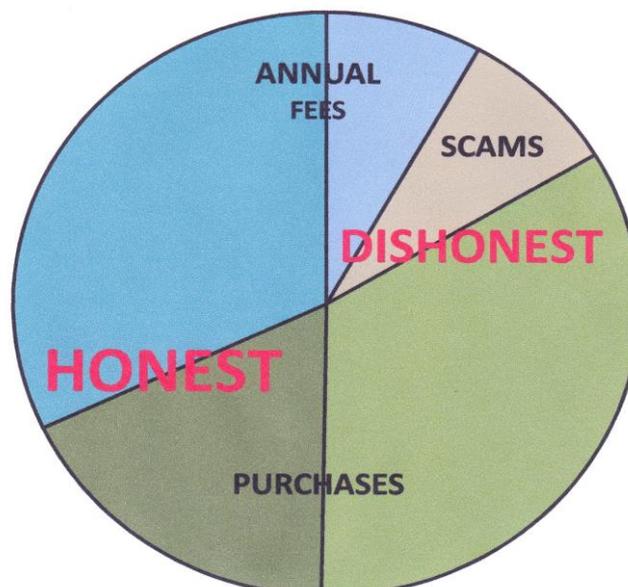
It is estimated that over the period 1977 to 2011 (34 years) the industry has taken the following amounts from consumers:-

- Sales c. £21 billion
- Annual fees etc. c. £16 billion
- Frauds & Scams c. £3.4 billion

Totalling c. £40 billion – an average of just over £1 billion a year - having peaked at around £1.3 billion in the year 2000.

Less than half these amounts were taken by honest means.

## How the timeshare cake was shared 1977 - 2011



## A tiny industry – with a big, bad, reputation !

European timeshare expenditure represents under 1% of European tourism expenditure, but a substantially greater proportion of consumer complaints.

## The Future of Timeshare in Europe ?

If timeshare has a future it will be very different from the past

The exodus of owners shows no signs of abating. Sales are down to a mere trickle with little prospect in the short, or even the longer term, of a recovery..

The industry is dying from self-inflicted wounds!

With so much easy money at stake the chances of anyone being strong enough to drag the industry into a healthy, long term growth mode, was remote. It just didn't happen Now it just won't happen.

Of course the recession has played a part but the real rot set in more than a decade ago. Any trader hanging around in the expectation that timeshare popularity will return is likely to be disappointed.

And age isn't just an ownership problem. The originators of the scams are now in their 60's and ready for retirement. Very few have obvious successors. Although some businesses may be bought by companies with the ability to reformat the management into a long term profit producer, most will die with their creators.

The principle assets that will remain will be the real estate. When the property market in Spain picks up, more resorts will be cleared of owners enabling developers to recoup their original investment made 30 or so years ago, and walk away. Leaving the timeshare owners in the cold .

Resorts in Germany, France, Italy, Finland and the UK - mostly populated by their own nationals - are in a better position. The "staycation" practice produced by the recession has kept them reasonably full and age is not such a barrier to short distance travel. So resorts local to their owners are more likely to survive longer.

And hopefully there will be tough new regulation of the product itself giving owners sufficient control over their ownership so that the rogues can't spoil it.

### What will timeshare in Europe look like in 2022 ?

- Most of the rogues will have gone.
- Far fewer resorts will remain – especially in mainland Spain and the Canaries – but those that do will be of a very high standard competing head on with five star hotels. At prices little different from the open market rental prices as they are forced to market to a savvy Internet generation to whom value-for-money will be an instinctive test.
- A greater percentage of resorts outside the Iberian peninsula will survive, but again, only those that are offering good value, high quality, accommodation.
- Business performance of the industry will be comparable to that of hotels with similar margins, modest investment return criteria and similar risks. No more obscene profits
- Ownership numbers are unlikely to exceed half a million. A shadow of its former self !

### Finally – a Thank You

This report would not have been complete without the valuable information provided by a number of industry employees and ex-employees. Thank you.

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