



**Accommodation
Association
of Australia**

Future of Financial Advice Legislation 2011

Submission of the

Accommodation Association of Australia

EXECUTIVE SUMMARY

1. Timeshare is an integral part of Australia's accommodation and tourism industries.
2. Timeshare is a significant plank in the Australian economy – its annual value-add is \$486.4 million.
3. If both the Future of Financial Advice (FOFA) bills pass Parliament in their current form, the impact on timeshare in Australia will be immediate and devastating.
4. There is a risk that companies in timeshare in Australia would end their operations in this country, potentially causing timeshare resorts to close and jobs within the industry to be lost.
5. As well as decimating timeshare, such a scenario would compromise the process of boosting the number of new accommodation rooms by between 40,000-70,000, as outlined in Tourism Australia's "2020 Tourism Industry Potential".
6. Licensed timeshare businesses in Australia should be made exempt from application of the FOFA legislation.

INTRODUCTION

7. The Accommodation Association of Australia welcomes the opportunity to provide a submission to be considered as part of the Commonwealth Parliament's Inquiry into the Future of Financial Advice (FOFA) legislation which is being undertaken by the Joint Committee on Corporations and Financial Services.
8. Specifically, the FOFA legislation consists of two bills:
 - The Corporations Amendment (Future of Financial Advice) Bill 2011; and
 - The Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011.
9. The first FOFA bill was introduced to the House of Representatives on 13 October 2011, while the second bill was introduced to the House of Representatives on 24 November 2011.
10. As well as being the subject of an inquiry by the Joint Committee on Corporations and Financial Services, the bills are also being scrutinised through an inquiry by the Senate Economics Legislation Committee.

ABOUT THE ACCOMMODATION ASSOCIATION

11. The Accommodation Association of Australia (the Accommodation Association) is the national industry body for the Australian accommodation industry.
12. Members of the Accommodation Association include major hotels, resorts, motels, motor inns, serviced and holiday apartments, bed and breakfasts, guesthouses, backpackers and timeshare establishments in metropolitan, regional and rural Australia across all states and territories.
13. The Association's membership base includes almost 2000 properties and more than 110,000 guest rooms.
14. The Association's members include major hotel chains, including Accor Hotels, Mirvac Hotels and Resorts, Hilton Hotels, Toga Hospitality, Mantra Group, Rydges Hotels, Amora Hotels, InterContinental Hotels Group, 8Hotels and Quest Serviced Apartments.

THE ACCOMMODATION SECTOR – OVERVIEW

15. Tourism contributes \$34 billion to Australia’s gross domestic product (GDP), a 2.6 per cent share.¹
16. Around 500,000 Australians are employed in the Australian tourism industry – 4.5 per cent of total employment.²
17. Employment within Australia’s accommodation sector stands at 71,500 – 14.3 per cent of the total employment in tourism.³
18. Tourism is Australia’s leading services export and it is the sixth-largest total export earner.⁴
19. Tourism contributes \$23 billion or 9 per cent of Australia’s total export earnings for all goods and services.⁵
20. There are 4279 tourism accommodation establishments in Australia.⁶
21. There are 227,320 tourism accommodation rooms within Australia and 640,454 bed spaces.⁷
22. Tourism’s share of the Australian economy has been declining.
23. The number of domestic overnight trips taken by Australians has fallen by 1.1 per cent on average each year over the period 2001-2010.⁸
24. The total number of domestic visitor nights fell by 1.2 per cent on average each year between 2001-2010.⁹
25. Tourism has a number of unique characteristics in comparison to other industries. These include:
 - It is highly labour intensive;
 - It requires the input of many service providers into a single “product” to the end consumer;
 - It is dominated by a significant number of small businesses;
 - Tourism competes against all other discretionary expenditures for the “hearts and minds” expenditure of the consumer; and
 - Tourism businesses operate in a highly complex environment requiring significant compliance skills and costs.

¹ Tourism Industry Facts & Figures (at a glance), Department of Resources, Energy and Tourism/Tourism Research Australia, May 2011, Page 44

² Ibid, Page 44

³ Ibid, Page 51

⁴ Ibid, Page 45

⁵ Ibid, Page 45

⁶ Ibid, Page 55

⁷ Ibid, Page 55

⁸ Ibid, Page 26

⁹ Ibid, Page 26

TIMESHARE – AN INTEGRAL PART OF THE ACCOMMODATION SECTOR

26. Timeshare is an integral part of Australia's accommodation sector.
27. Timeshare, or holiday ownership, is where an individual purchases a fraction of whole ownership of an accommodation room, apartment or similar. The individual can then stay in the accommodation room for a designated portion of time each year.
28. The growth of timeshare as a lifestyle product has seen an evolution in the options available to timeshare customers. Specifically, there are timeshare products on the market which enable consumers to purchase points instead of time in a particular resort. On each occasion when the customer wishes to take a holiday, this option enables them to choose the location of the accommodation room from a wide variety of locations, the type of accommodation room they wish to stay in and the length of stay. A combination of these factors – together with when the customer wishes to stay in the timeshare room – determines the cost of staying in points.
29. Similar to other segments of the accommodation industry, it costs more, i.e. more points, to stay in timeshare rooms in peak periods, such as the Christmas-New Year holiday period.
30. Timeshare is one of the fastest growing and most resilient segments of the accommodation and tourism industries, with the industry investing millions of dollars in Australia every year.

ECONOMIC IMPORTANCE OF TIMESHARE

31. As at December 2009, there were 152,000 owners of timeshare in Australia, which is 20 per cent higher than 2004-05.¹⁰
32. There are a total of 78 timeshare resorts in Australia with 2593 timeshare units.¹¹
33. There were approximately 121,500 timeshare weeks available in Australia in 2009, of which 105,000 weeks were occupied, representing an occupancy rate of 86.5 per cent.¹²
34. The economic output – both direct and indirect (business services for timeshare resorts, including manufacturing, finance, insurance, transport, storage, wholesale trade, construction and retail) – in 2009 was \$1.086 billion.¹³
35. The value-add of timeshare to the Australian economy – both direct and indirect – in 2009 was \$486.4 million.¹⁴
36. In 2009, 4603 (full-time equivalent) people were employed in timeshare in Australia, with salaries, wages and related income totalling \$304.4 million.¹⁵

¹⁰ Economic Significance of the Australian Timeshare and Holiday Ownership Industry, AECgroup, October 2010, Page 8

¹¹ *Ibid*, Page 8

¹² *Ibid*, Page 8

¹³ *Ibid*, Page ii

¹⁴ *Ibid*, Page ii

¹⁵ *Ibid*, Page ii

IMPACT OF FOFA LEGISLATION ON TIMESHARE

37. If both of the FOFA bills pass Parliament in their current form, the impact on timeshare in Australia will be immediate and devastating.
38. The Accommodation Association has been made aware that the FOFA reforms were not intended to capture timeshare. However due to the way in which timeshare is regulated – timeshare operators must hold an Australian Financial Services Licence which is issued by the Australian Securities and Investments Commission (ASIC) in accordance with the Corporations Act 2001 – and that the provision of points to timeshare customers is through a Managed Investment Scheme structure, timeshare points are classified as financial products for the purposes of the Corporations Act 2001. This means that the FOFA reforms will apply to timeshare.
39. As the committee is aware, the FOFA legislation seeks to ban conflicted remuneration structures, including commissions and volume-based payments.
40. Public statements by the Federal Government have indicated that the principal application of this ban is on financial advisors.
41. However, sales staff who work within the timeshare industry in Australia are paid on a commission basis, i.e. the more points they sell, the higher their salaries. Note: Notwithstanding this remuneration structure, sales staff are guaranteed to receive, as a minimum, the award wage.
42. The global industry norm is that sales staff in the timeshare industry are paid on a commission basis. Fixed salary remuneration structures have been trialled by timeshare companies, but this has resulted in significantly reduced returns, so much so that the business of timeshare has been unviable under the fixed salary model.
43. Therefore, if the FOFA legislation is to apply to timeshare in its current form, there is a distinct risk that this important segment of the Australian tourism industry will cease to exist in its current form.
44. Specifically, there is a risk that companies in timeshare in Australia would end their operations in this country, potentially causing timeshare resorts to close and jobs within the industry to be lost.

2020 TOURISM INDUSTRY POTENTIAL

45. A scenario where timeshare is decimated in Australia would have significant ramifications for Tourism Australia's "2020 Tourism Industry Potential".
46. This document, which was publicly released in November 2010, outlined an ambitious set of goals to promote long-term, sustainable growth of Australia's tourism industry.
47. For industry, realising this potential, according to Tourism Australia, would:
 - Double overnight expenditure from \$70 billion in 2009 to as high as \$140 billion in 2020;¹⁶
 - Increase tourism's contribution to GDP to up to 3 per cent in 2020;¹⁷ and
 - Increase tax revenues from tourism from \$9.3 billion in 2009 to as high as \$14.5 billion in 2020.¹⁸
48. To achieve the goals in the 2020 Tourism Industry Potential, Tourism Australia estimates between 40,000-70,000 new accommodation rooms will be needed in Australia (at occupancy rates of 75 per cent). These new rooms will be needed mainly in capital cities, with improvements on quality, rather than quantity being the focus for regional Australia.¹⁹
49. If significant room inventory is lost as a result of the impact of the FOFA reforms on the Australian timeshare industry, it will represent a significant setback in the process of expanding the accommodation industry by between 40,000-70,000 new accommodation rooms, as outlined in the 2020 Tourism Industry Potential.

¹⁶ 2020 Tourism Industry Potential, Tourism Australia, 15 November 2010

¹⁷ *Ibid*

¹⁸ *Ibid*

¹⁹ *Ibid*

FOFA EXEMPTION – TIMESHARE

50. Taking into consideration the impact on Australian timeshare, the tourism industry within Australia and the broader economy, it is the submission of the Accommodation Association that the FOFA reforms should not apply to the timeshare industry.
51. Therefore, the Association recommends that measures be implemented so that timeshare would not be subject to the FOFA legislation. The most efficient means of doing this would be to exempt licensed timeshare businesses from being captured by the FOFA legislation.
52. The justification for such an exemption is:
- Timeshare payments are not conflicted remuneration because the payment of timeshare commissions has no influence on the choice of financial product recommended by sales staff of timeshare businesses;
 - Timeshare sales staff have no conflict of interest because they only sell one product – timeshare;
 - Timeshare points are a lifestyle product – not a personal financial investment. Indeed, it is compulsory for licensed timeshare businesses to inform potential customers and customers alike that timeshare is not a personal financial investment;
 - Independent research conducted by Griffith University found that the reason almost all consumers who purchase timeshare do so because it is a lifestyle product;²⁰
 - Banning commissions paid to sales staff in timeshare businesses will not result in improved consumer protection for timeshare customers (the intention of the FOFA reforms is to promote higher levels of consumer protection); and
 - Timeshare is an integral part of the accommodation and tourism industries which provides tangible economic benefits to the communities in which resorts are located, including locations in regional Australia.
53. The Australian timeshare remuneration model is similar to payment structures in the real estate and retail sales industries. Incidentally, in overseas countries, regulation of timeshare is similar to the real estate sector.

²⁰ Established Owners' Perceptions of Timeshare, Griffith University, 2009, Page 35

CONCLUSION

54. The Accommodation Association looks forward to further engagement with the Joint Committee as it continues its inquiry into the FOFA legislation.

Date: 22 December 2011