

17 March 2005

Ms Sarah Bachelard
Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
Parliament House
Canberra ACT 2600

Dear Ms Bachelard,

Inquiry into regulation of the timeshare industry

Thank you for your letter dated 15 December 2004, inviting TTF Australia (TTF) to make a submission to the Committee regarding its inquiry into regulation of the timeshare industry. This inquiry is much welcomed, as it provides an opportunity for regulatory conditions to be reviewed, and modified if appropriate, to more accurately reflect the distinct nature of the industry.

TTF Australia is a national, member-funded CEO forum, advocating the public policy interests of the 200 most prestigious corporations and institutions in the Australian transport, property, tourism & infrastructure sectors.

Amongst TTF's Membership are two of Australia's largest timeshare industry operators – Trendwest South Pacific and Accor Premiere Vacation Club. TTF acknowledges that each of these organisations has made individual submissions to the Committee on this matter.

TTF's comments on the terms of reference provided by the Committee are as follows:

- a. The effectiveness of the current regulatory arrangements for the time-share industry under the *Corporations Act 2001*, including:**
 - whether the current regulatory arrangements are confusing to consumers and inhibit the development of industry;
 - whether the current regulatory arrangements place an undue compliance cost on industry;

- **whether the current regulatory arrangements are effective in protecting consumers of time share products.**

TTF submits that there are a number of shortfalls, at both an industry and consumer level, of the current regulatory arrangements for the timeshare industry under the Corporations Act 2001.

The shortfall of these regulatory arrangements largely stems from the well recognised anomaly between the way timeshare products are regulated and the way they are sold.

Timeshare purchases are currently regulated as financial investment products under the Corporations Act 2001, despite the reality that consumers purchase timeshare products for leisure purposes and also, that timeshare products are prohibited by ASIC, under Policy Statement 66, from being sold or represented to consumers as financial investment products.

Whilst TTF recognises that significant improvements to consumer protection have been delivered by the current regulatory regime, the current regulatory arrangements can create consumer confusion and also impose significant compliance burdens on the timeshare industry.

One of the benefits of the current regulatory regime is that it has 'raised the bar' for market entry, ensuring a higher degree of consumer protection and enabling an improved reputation of the industry. However, in the current environment, many of the compliance requirements stipulated by the current regulatory regime are irrelevant and onerous on the timeshare industry.

An example of the anomaly that exists between the way timeshare products are regulated and the way they are sold is the requirement for advisers to undertake extensive training for the provision of financial investment advice, and training which is specific to the timeshare product. Given that ASIC prohibits timeshare products from being sold or represented as financial investment products, a significant proportion of training undertaken is prohibited from being put into practice by sellers of the product. Training costs incurred are mandatory, but their irrelevance in some respects is effectively imposing an unnecessary cost on doing business and only serves to increase product price.

A range of formal documentation relevant to the investment advisory industry must be provided to consumers in the timeshare sales process. Whilst timeshare advisers also explain to customers that timeshare products are not in fact financial investments, there is a real risk for consumer confusion and for misconceptions to arise as, on one hand, consumers are being told that timeshare products are *regulated* as financial investment products and are given the associated formal documentation to this end, on the other, they are being told that it is not in fact one. In effect, these requirements only serve to cloud and confuse and through so doing, can be detrimental to the reputation of timeshare.

The significant compliance costs that are incurred by the industry are ultimately passed on to consumers. When combined with the complexity of the purchase process from a consumer perspective, a real threat to consumer demand emerges. The international competitiveness of the Australian timeshare industry is endangered, and investment in the industry is potentially deterred.

b. Advantages and disadvantages of possible models for reform of the regulatory arrangements applying to the time share industry, including:

- **self-regulation of the industry on a national basis;**
- **alternatives to coverage under the *Corporations Act 2001*, either by separate Commonwealth legislation or state and territory legislation.**

TTF does not support the option of self regulation of the timeshare industry on a national basis, nor does TTF support a model of reform whereby the timeshare industry would be regulated under separate state/territory legislation.

State based legislation would make compliance for national companies more costly and onerous. Any new regulatory regime should be streamlined and national. Since most timeshare businesses operate on a national basis, it is appropriate that the industry continues to be regulated under the jurisdiction of the Commonwealth Government.

It is imperative that any new regime achieves a balance between maintaining a high standard of consumer protection and imposing steep compliance costs to businesses. It should not hinder industry growth nor discourage consumers from purchasing timeshare products.

It is TTF's view that a regulatory regime that correctly defines the nature of the timeshare product and sets regulatory obligations and appropriate standards commensurate with the scale and nature of the behaviour sought to be controlled is a far more preferable situation than the artificial, unduly costly and uncomfortable regime which currently exists.

Should you wish to discuss this further, please contact Peter Staveley, National Manager, Infrastructure and Investment, on (02) 9240 2014 or pstaveley@tff.org.au.

Yours sincerely,

PETER STAVELEY
National Manager, Infrastructure and Investment