

8 April 2005

Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
Department of the Senate  
Parliament House  
CANBERRA ACT 2600

Email: [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

Dear Committee Secretary

## REGULATION OF THE TIMESHARE INDUSTRY

In relation to the Parliamentary Joint Committee's inquiry into Regulation of the Timeshare Industry, the Australian Direct Marketing Association (ADMA) in general supports the submissions of the Australian Timeshare and Holiday Ownership Council (ATHOC) but wishes to make some specific points relating to direct marketing issues.

ADMA is a national association representing the interests of about 500 companies and organizations involved in data-driven marketing. In this respect the interest of our members relates to the first of the 8 Step Sale Process ("Consumer Meeting") described by ATHOC in its supplementary submission.

Typically the initial approach to a consumer to arrange Step 1: Consumer Meeting will be by one of the direct marketing channels. At present that is most frequently via telephone however that may change in line with consumer preferences.

ADMA's major concern is that the Committee takes into account the proliferation and confusing range of regulatory regimes for telemarketing before recommending any new or separate regulation of the timeshare industry.

Secondly ADMA is concerned to ensure that any misunderstanding of the role of telemarketing in the timeshare sales process is clarified. A timeshare purchase is not like buying an insurance policy over the telephone for instance. The only part of the process conducted over the telephone is arranging the initial meeting and that element is already covered by Fair Trading legislation.

ADMA's warning against further complicating regulation about use of the telephone stems from our members' increasing frustration at the overlapping and costly web of Commonwealth and State legislation particularly in relation to any financial product.

First any contact is subject to the Commonwealth Privacy Act specifically National Privacy Principles 1 and 2 dealing with Collection, Use and Disclosure of personal information.

Second use of the telephone is now considerably complicated by differing provisions in the New South Wales and Victorian Fair Trading Acts with other States considering similar but not identical provisions. The NSW and Victorian Governments have undertaken to harmonise their laws but so far nothing has been done. The provisions relate to issues such as times of calling, cooling off periods and provision of written information.

Third, as the Committee will be aware, there are the Anti-Hawking provisions of the Financial Services Reform Act which add a further layer of regulation to use of the telephone in relation to the sale and marketing of financial products.

It is ADMA's submission that the Committee takes the above into account when considering any measures relating to direct marketing particularly telemarketing for the timeshare industry. Any regulation which adds to the patchwork of telemarketing provisions will add to, not subtract from the confusion of consumers.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Sangster', written in a cursive style.

Jodie Sangster  
**Director - Legal and Regulatory, ADMA**