

BRIEFING NOTES FOR SUBMISSION OF PAUL O'SHEA to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into the Timeshare Industry

In the absence of a detailed submission, these notes are a background to the evidence to be provided by Paul O'Shea.

- Paul O'Shea is Consumer Representative on the Complaints Resolution Committee (CRC) of the Australian Timeshare Holiday Ownership Council (ATHOC)
- He is also a member of:
 - Queensland Surveyor's Board
 - Council of the Financial Co-operatives Dispute Resolution Service
 - Insurance Ombudsman Service Ltd (Alternative Panel Member)
 - Board of the Credit and Consumer Law Centre (Qld) at Griffith University
 - Queensland Consumer's Association
- Timeshare Industry, historically, was fraught with market failures and inappropriate sales conduct:
 - Complex product not understood by consumers or sales personnel
 - High pressure sales tactics using "seminar" style sales
 - A fixed term single resort product which was inflexible and often inappropriate to consumer's needs
 - Unregulated except by the general law
 - Substantial access to justice issues as many timeshare purchasers could not afford representation
 - Inequalities of bargaining, litigious and information power.
 - Often sold with linked credit – famous disasters "Terranora Lakes", "Equus Financial Services" cases.
- Improvements:
 - Better regulated – Firstly, Managed Investments Act and now, Financial Services Reform Act amendments – disclosure etc
 - Although arguable that it is not appropriately regulated as an "investments" (more akin to real estate) in the absence of adequate, national centrally regulated investment property regulation, the FSR regime is the best option .
 - Decline of the "fixed" products and the development of the "points" system – better, fairer, more useful product.
 - Adverse media attention
 - Better industry development through ATHOC – Code of Conduct (e.g. 10 day cooling off period c.f. 5 days in the Act)
 - Actions by regulators e.g. ACCC against Trendwest
 - Improved dispute resolution – e.g. ATHOC CRC (See CFA Report attached with stats)

- Continuing problems
 - Problems with disclosure – too much is not nearly enough, formats and language. (See Research into Consumer Credit disclosure)
 - Cooling Off – not notified and not effective if consumers questions not answered during the period
 - Verbal and visual representations – the “seminar” style presentations with the private interviews afterwards, lend themselves to representations being made, impressions formed and misunderstandings reached which completely defeat the purpose of the disclosures.
 - Training of sales staff
 - Dispute Resolution- ATHOC CRC is NOT sufficiently independent. The industry can afford a stand alone independent dispute resolution scheme (ATICS) but did propose such to ASIC and, thus were refused PS139 approval. If they could improve their proposal to provide for adequate funding, independent operations and long term viability then they would satisfy the requirements of PS139.