

Research Briefing

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Timeshares: common problems faced by UK owners



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Summary

The [Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010](#) (SI 2010 No. 2960) (known as the “Timeshare Regulations”) came into force on 23 February 2011 and apply across the UK. The overriding aim of the Regulations is to enhance consumer confidence in the timeshare industry and eliminate the operations of rogue traders. The Regulations transposed into UK law [EU Directive 2008/122/EC](#) on the “protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts” (replacing the previous 1994 Directive). The Directive was a response to the emergence of new holiday products and transactions.

The 2010 Regulations were subsequently amended by the [Timeshare, Holiday Products, Resale and Exchange Contracts \(Amendment etc\) \(EU Exit\) Regulations 2018](#) (SI 2018 No. 1397). As far as possible, the amendments ensure that the protections available to UK consumers purchasing timeshares or related products remain the same following the UK’s departure from the EU.

The 2010 Timeshare Regulations (as amended) apply to the sale and marketing of the following types of contract:

- [A timeshare contract](#) – “a contract of a duration of more than one year under which a consumer, for consideration, acquires the right to use one or more overnight accommodation for more than one period of occupation”.
- [A long-term holiday product \(LTHP\) contract](#) – a contract of a duration of more than one year.
- [A resale contract](#) – a contract under which a trader, for consideration, assists a consumer to sell or buy a timeshare or a LTHP.
- [An exchange contract](#) – a contract under which a consumer, for consideration, joins an exchange system which allows that consumer access to overnight accommodation or other services, in exchange for granting to other persons temporary access to the benefits of the rights deriving from that consumer’s timeshare contract.

The legal structure of timeshares varies from jurisdiction to jurisdiction. A further complication is that a timeshare might be located in one country, owned by a company based somewhere else, and managed from yet another country.

During the 1980s and 1990s, many timeshares were sold aggressively to British tourists who were on holiday and without access to independent legal advice. Some contracts were not written in English and included an obligation to pay expensive annual management and maintenance fees. Often timeshare

agreements are made “in-perpetuity” (i.e., as everlasting contracts). In effect, the contracts ‘lock’ the timeshare owner and – it now transpires – their children in for life. Some owners would ideally like to sell their timeshare, but there may be little demand. Offloading unwanted timeshares and the problems surrounding the inheritance of them are concerns usually compounded by the need to pay yearly maintenance costs on the property. In some cases, this makes a big dent in the dwindling savings of elderly owners and is a worry looming for relatives who stand to inherit the timeshare.

The focus of this briefing paper is on the problems faced by some UK timeshare owners. It provides an overview of EU and UK regulation of timeshares and LTHPs. It also considers the exit problems associated with timeshares, focusing on “in-perpetuity” clauses. Finally, this paper suggests organisations that might be able to help timeshare owners.

1 Introduction

1.1 Definition of timeshare and LTHP

For the purposes of the [Timeshare Regulations 2010](#)¹, the term “timeshare” means any consumer product that enables the purchaser to use one or more places of overnight accommodation for more than one occupational period under a contract that lasts for more than one year.² The product does not have to be called a timeshare to come within this statutory definition.

The Timeshare Regulations may also apply to a “long-term holiday product” (LTHP) or a holiday club. An LTHP gives the purchaser certain discounts or benefits in respect of accommodation under a contract that lasts for more than one year. A holiday club may give its members access to reduced price holidays at the resorts which participate in its scheme.

1.2 Basic timeshare model

Timeshare may be legally structured in different ways and governed by the law of different jurisdictions. That said, in 2014, the UK’s [Competition and Markets Authority](#) (CMA) identified the following basic structure of a timeshare model in a typical resort:³

- A professional developer makes the initial investment to build the resort and makes the initial sales of timeshare products to consumers.
- A professional trustee is appointed to hold the real estate on trust for the owners, so to ensure that the occupation rights are adequately protected for the life of the product.
- An owners’ association/committee is formed, comprising representatives from the owners and the developer. The committee assumes ultimate responsibility for running the resort, setting management fees, determining future investments, and making further sales and resales.
- The committee employs a management company to assist it. This management company may be a subsidiary of the original developer.

¹ [SI 2010 No. 2960](#) – the Timeshare Regulations 1997 were repealed

² In respect of timeshare ownership, an important distinction needs to be made between ‘deeded ownership’ and ‘right to use’. ‘**Deeded ownership**’ is where legal ownership of real property is conveyed from vendor to buyer via deed. With ‘**right to use**’, the purchaser acquires the right to use property in accordance with the contract but gains no legal title to that property

³ Competition and Markets Authority (CMA), [Disposal of Timeshares and Other Long-term Holiday Products – A Report for BIS and the European Commission](#), July 2014, p. 15-16

The management company will also be represented on the owners' committee.

- The terms or rules of timeshare ownership are found in the original contract and, if applicable, in an associated constitution of the resort or club which is intended to be binding on the consumer.

Under this basic timeshare model, consumers may purchase the use of their timeshare in the form of:

- weeks, for example a fixed week at the same unit or resort every year or for a floating week within a certain time band each year (the actual week being booked in advance subject to availability), or
- points, which are used as a currency to book holidays; the more points a consumer has, the greater the choice of resorts, accommodation, duration, and time of stay.

1.3 The market for timeshares and LTHPs

In 2014, having investigated the market for timeshares and LTHPs, the CMA published a report⁴ in which it made the following observations:

- **Profile of owners:** There are between 500,000 and 600,000 UK timeshare owners, almost a half of them have timeshares in Spain, 20% in the UK and 25% outside of Europe. Many owners bought their timeshares in the 1980s or 1990s, their average age being around 50 to 60 years old (rising each year). As time passes, some owners may be unable to travel or may find management fees for their timeshare unaffordable.
- **In-perpetuity clause:** Some contracts make little or no provision for exiting the timeshare, while others contain 'in-perpetuity' clauses creating the potential for the owner's liabilities to pass on death to their children. To exit their timeshare, owners often need to find someone who is willing to acquire it.
- **Timeshare market:** The popularity of different resorts, and hence the marketability and value of different timeshares, varies. Overall, supply far exceeds demand: the number of weeks offered for sale is much greater than the number of weeks being bought each year. According to the CMA, difficulty in exiting timeshares provides an opportunity for resale scams.⁵

⁴ Competition and Markets Authority (CMA), [Disposal of Timeshares and Other Long-term Holiday Products – A Report for BIS and the European Commission](#), July 2014, p. 6

⁵ The CMA identified two types of resale scam. (i) In the first scenario, scammers (acting as resellers) claim to have interested buyers for the owner's timeshare rights. (ii) In the second, they claim to be able to 'negotiate' without penalty the owner's exit from the timeshare agreement. In both cases, the owner pays a fee for the service. However, there are usually no buyers, the owner is not freed from the timeshare, and the fee is not refunded. The owner has effectively been scammed.

- **Management fees:** The CMA highlights an issue with high, ever increasing management fees. Some owners who cannot afford to pay these fees (in breach of their contractual obligation) are threatened with, or have faced, legal action for non-payment.

More generally, the CMA recognises that helping people to terminate/exit their timeshare contract may create difficulties for those owners who remain. Unless new owners are found, there will be a smaller pool of owners left to pay the management fees. In effect, remedies need to balance the interests both of owners who wish to exit their timeshare with those who want to stay.⁶

⁶ Competition and Markets Authority (CMA), [Disposal of Timeshares and Other Long-term Holiday Products – A Report for BIS and the European Commission](#), July 2014

2 EU regulation of timeshares and LTHPs

EU law regulates aspects of timeshare, LTHPs, resale and exchange contracts. In 2011, [Directive 2008/122/EC](#) replaced the Timeshare Directive 94/47/EC with clearer and simpler rules.⁷ The Directive has been adopted by all members of the EU and has equal applicability and enforcement (see **Box 1** below). However, the termination of timeshare contracts falls outside the scope of the Directive.

1 Timeshare Directive 2008/122/EC

The Timeshare Directive extends consumer protection to new timeshare products appearing on the market. Specifically, the Directive extends the scope of previous rules to cover:

- LTHPs (e.g., holiday clubs)
- Shorter term contracts – all purchases for a year or more, including tacit renewal of shorter periods
- Timeshare-like products e.g., timeshare in canal boats, cruise-ships and caravans or timeshare contracts for less than three years (previous legislation only covered periods of three years or more)
- Resale and exchange of timeshare schemes

The stated aim of the Directive is to enhance consumer rights, through stringent rules on the information that timeshare companies must provide to consumers. Under these new rules, prior to contract, a private individual considering the purchase of a timeshare must be made aware of key information, written in their own language, and in a standardised form. Buyers are also given rights of withdrawal, so that they can cancel a contract without penalty during a 14-day cooling-off period.

The Timeshare Directive only deals with certain specified timeshare problems, for example, a consumer's rights when agreeing the contract.⁸ Timeshare and LTHP issues relating to the termination of contracts, inheritance rights and obligations, remain regulated by national laws of EU states.

⁷ [Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts](#), L 33/10 OJ, 3.2. 2009

⁸ HC Deb 3 June 2013 c1353

The EU Commission (EC) published a [report](#) on the operation of the Timeshare Directive on 16 December 2015.⁹ Further information is provided in section 5 of this paper.

⁹ [Report on the evaluation of Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts](#), COM(2015) 644 final, 16 December 2015

3 UK regulation of timeshares and LTHPs

With the UK no longer a member of the EU, many UK consumers are concerned about what this will mean for timeshares in terms of performance of contracts, costs, and future sales. Outlined below is UK legislation that may, depending on the circumstances, be relevant to a timeshare or LTHP agreement.

With resorts spread across a wide geographical area (with many located in Spain, Portugal, Greece, and Malta), it is important to note that the terms and conditions of individual timeshare or LTHP agreements will vary, and there may be unique legal complexities and jurisdictional issues in seeking to buy or exit a timeshare or LTHP. For example, regarding timeshares located in Europe or overseas, the timeshare contract may stipulate that the law of that foreign country governs the agreement, not UK law.

3.1 At contract and common law

In the UK all legal rights and obligations which bind the purchaser and seller of a timeshare should be detailed in the original timeshare agreement. Under common law principles of contract law, a timeshare or LTHP owner will be bound by those terms and conditions agreed when they entered the contract.

However, businesses cannot always argue successfully that their obligations to consumers are dictated solely by what it says in the contract. There may be scope for challenging an **unfair contract term**, particularly where the term would place an onerous restriction on the consumer. For example, terms that purport to be estate-binding (i.e., in-perpetuity clauses), require excessive notice periods from owners, place unduly high barriers to exit, or penalise owners of existing timeshare might be deemed unfair by a court (see below).

For UK consumers, a frequent complication is that the timeshare resort is located outside of the UK and may be owned by a company based in yet another country. As a result, there may be difficulty in determining which law governs the timeshare contract and which courts have jurisdiction to hear disputes arising from it.

3.2 Timeshare Regulations 2010

The [Timeshare Regulations 2010](#) mainly apply to timeshare and LTHP contracts made in the UK, but (depending on the circumstances) might also

apply if the business is selling timeshare to consumers in the UK (much would depend on the facts). The Regulations aim to protect consumers from illegal or unreasonable timeshare contracts and scams. The 2010 Regulations were amended by the [Timeshare, Holiday Products, Resale and Exchange Contracts \(Amendment etc\) \(EU Exit\) Regulations 2018](#)¹⁰ to ensure, as far as possible, that the protections available to UK consumers purchasing timeshares or related products remain the same following the UK's departure from the EU. The Regulations apply to the marketing and sale of four different types of contract, namely:

- A timeshare contract with a duration of more than one year. Long term holiday product (LTHP) contract with a duration of more than one year. Resale contracts under which a consumer uses a trader to sell or buy their timeshare or LTHP. Timeshare exchange contracts where a consumer joins an exchange system, permitting them access to overnight accommodation or other services, in exchange for temporary access to the rights and benefits arising from the timeshare contract. While the Regulations provide consumer protection to timeshares and to LTHPs there is an important distinction:
- the Regulations provide consumers with the right to withdraw from a LTHP contract when payment of each annual instalment becomes due, whereas the Regulations only deal with the resale and exchange of timeshares – not the termination of timeshare contracts. In brief, the Regulations require:
- Pre-contractual information to be provided to consumers about future costs (including the methods by which maintenance charges will be calculated), the degree to which timeshare owners have a role in decisions about future costs, and detailed information about precisely what rights are provided under the contract. This information forms part of the contract. The consumer to be informed about a mandatory 14-day cooling-off period, beginning on the later of the date the contract is concluded or the date on which the consumer receives a copy of the contract. During this cooling-off period, the consumer can withdraw from the contract without penalty if they decide it is not for them after all. No money can be taken from the consumer until the 14-days cooling-off period has elapsed. If the timeshare business fails to properly inform the consumer, then the cooling-off period can be extended to one year and 14 days.¹¹ In cases where, in lieu of an outright exit, a consumer is instead offered a new timeshare product, the consumer must be provided with specific statutory pre-contract information, including the existence of the mandatory 14-day withdrawal period (which may be extended in certain circumstances). The agreement may be unenforceable against the consumer if the business fails to provide the consumer with the specified information or draw their attention to the cooling-off period. Outside the

¹⁰ [SI 2018 No. 1397](#)

¹¹ Previously, there was a cooling-off period only if the timeshare agreement was for at least three years

cooling-off period, where the agreement is for a LTHP, these Regulations allow the consumer to terminate by giving notice no later than 14-days after the date on which they receive a request for payment of an instalment towards the cost of the holiday product.¹²Local authority trading standards officers are responsible for enforcing the Regulations.

3.3 Consumer Rights Act 2015

This section deals with the [Consumer Rights Act 2015](#) (CRA 2015) which replaced the [Unfair Terms in Consumer Contracts Regulations 1999](#) (UTCCRs) on 1 October 2015. However, any timeshare contract agreed before this date will still be governed by the UTCCRs.

Contractual terms which place onerous restrictions on the consumer may be challenged under Part 2 of the CRA 2015. This applies a statutory test of fairness to contract terms and conditions included in a standard contract. It applies to business-to-consumer contracts in general and therefore covers timeshare and other holiday contracts.

[Part 2](#) of the CRA 2015 introduces the notion of “good faith” to prevent any significant imbalance in the rights and obligations of the parties to the detriment of the consumer. For example, it requires contract terms, which have not been individually negotiated, to be drafted in plain and intelligible language; ambiguities to be interpreted in favour of consumers; and unfair standard contract terms to be declared non-binding on the consumer.

Part 2 of the CRA 2015 complements the 2010 Timeshare Regulations, by protecting consumers once the contract has been concluded.

3.4 Consumer Protection Regulations 2008

The [Consumer Protection from Unfair Trading Regulations 2008](#) (CPRs) prohibit businesses from engaging in unfair commercial practices before, during and after a contract is made with the consumer (see **Box 2**). The CPRs apply to commercial practices and conduct occurring after the CPRs came into force on **26 May 2008** (regardless of when any underlying contract was agreed).

2 Consumer Protection from Unfair Trading Regulations 2008 (CPRs)

¹² Regulations 24 and 26

In the context of a timeshare, the CPRs may be applicable in circumstances where, for example, businesses:

- Mislead consumers – a business will mislead a consumer if it gives false or inaccurate information or omits information the average consumer needs to take an informed decision or provides that information in a manner which is unclear, unintelligible, ambiguous or untimely, where this causes or would be likely to cause the average consumer to take a decision that they would not have taken otherwise. It is important to note that consumers' decisions are not limited to decisions about whether to purchase a product or service; they cover a range of decisions that may be taken in relation to the product, including decisions concerning disposal of a timeshare.

An example of a consumer being misled would be where a timeshare business provides a potential beneficiary with inaccurate information as to the benefits and obligations associated with timeshare or a LTHP when that person is considering whether to accept a bequest, or where that fail to provide the required information altogether.

- Adopt aggressive practices – that is, practices that, through harassment, coercion or undue influence, significantly restrict, or would be likely to significantly restrict, the average consumer's ability to make free or informed choices, where this causes or would be likely to cause the average consumer to take a decision that they would not have taken otherwise.

An example of an aggressive practice would be where a timeshare business applies pressure on a timeshare owner by threatening court action for outstanding maintenance fees and force that owner to accept liabilities connected with timeshare that they did not lawfully incur or that they dispute.

- Use, recommend or enforce unfair contract terms as against consumers, contravening the general prohibition on unfair commercial practices. These practices may also be misleading. Businesses must exercise the reasonable standard of care and skill that is in accordance with honest market practice and in good faith, so as not to materially distort or be likely to materially distort the economic behaviour of the average consumer.

It is important to note that the UTCCRs, the CRA 2015 and the CPRs are all principles based, meaning that it will ultimately be for the court to decide whether a rule or a practice is unfair, considering all the relevant circumstances.

3.5

Impact of Brexit on purchase of timeshares

Timeshares and LTHPs located in the UK and purchased by UK consumers will not be affected by Brexit. If purchasing a timeshare for UK-only accommodation, a UK consumer will see no change.

If a UK consumer purchases a timeshare with a UK company with EU accommodation, they may need to adjust to new travel and driving requirements. However, the protections they currently have when buying timeshares remain the same as before Brexit if a timeshare contract is entered into under UK law.

The situation will be different if a UK consumer enters into a contract with a company based in the EU to purchase a timeshare or LTHP in a foreign resort, in all probability the contract will be governed by the law of that EU country – not UK law. It is therefore imperative that the UK consumer ensures they are provided with clear information and independent legal advice before they buy the timeshare.

Before Brexit, in addition to harmonised consumer rights, EU legislation also gave UK consumers the legal right to enforce their rights in the EU (and vice versa). However, since 1 January 2021, if a UK court gives judgment in favour of a UK consumer, the enforcement of that judgment against an EU based business may be more difficult.

4 Common problems with timeshare ownership

4.1 Excessive increases in annual fees

Under EU and UK regulation, sales representatives and developers must ensure that important information about the cost of a timeshare is provided to individuals before they commit to the timeshare purchase. This includes information about methods used to calculate annual fees.

Despite these measures, excessive increases in annual fees and a lack of transparency about how these fees are calculated are still common complaints of timeshare owners. Some struggle to pay annual maintenance fees on a property they no longer use.

4.2 Resale problems

In recent years, some timeshare owners have complained to national bodies responsible for consumer protection and timeshare organisations about the difficulty of reselling their timeshares, either because of the obstacles created by developers or the fraudulent behaviour of some resale agents.

Many UK consumers were sold timeshares in the 1980s and 1990s on the basis that they were making a sound investment. However, some timeshares are difficult to sell either because of a lack of demand or because of the marketing and administrative expenses involved. It is estimated that most resold timeshares achieve a price of half or less of their original selling price.¹³

Some timeshare companies set obstacles to block re-sale, for example by insisting on very high transfer fees. Others may only allow resale if specific conditions are met, such as selling the timeshare through a certain resale agent of the company's choice. Some timeshare companies will only allow owners to exit in very limited circumstances, for instance, where illness makes travelling to the resort impossible.

¹³ Dhurgham Fadhil Hussein Al-Ali, John Gwilym Owen, Marie Parker, [Optimising your Holiday: A Proposal for the Optimal System for Timesharing from a Comparative Perspective](#), (2019) Oxford U Comparative L Forum 3 at ouclf.law.ox.ac.uk

4.3

Exit issues and in-perpetuity clauses

As already mentioned, neither EU nor UK legislation can assist owners who:

- wish to exit a timeshare after their cancellation rights have expired; or are burdened by contracts that contain “in-perpetuity” clauses (i.e., everlasting contracts). As a result, it can be difficult to terminate a timeshare contract (commonly referred to as “exit issues”). Some UK timeshare owners are forced to rely on the contract law and property rights of an overseas jurisdiction, others are forced to challenge potentially “unfair” contract terms designed to prevent exit, while some owners grapple with “in-perpetuity” clauses.

Timeshare contracts contain many different and complex termination or exit routes, for instance:

- Exit options may be specifically written into the contract and form a contractual right. For example, there may be an express clause in the contract which requires the timeshare management company to “buy back” the timeshare. Alternatively, it may require resale via an agent who will take a fee or require a private resale (where the owner finds a buyer themselves). Some companies may allow timeshare owners to terminate agreements on request, others will only provide this option to the sick, the elderly (i.e., those aged 75 or over), or those made bankrupt. There are some resorts where the option to exit is wholly dependent on the developer or the owners committee – it is at their discretion. Some owners who wish to exit a timeshare might instead be offered an exchange, a transfer, or an upgrade product, but they are not cost-free. Some timeshare contracts purport to last “in-perpetuity”, that is, forever or for an indefinite period. Other contracts include long term clauses under which the timeshare contract will last far into the future (for example, 70 years) with little or no provision for the owner or member to end the agreement.

In recent years, in-perpetuity and estate-binding clauses have been a common complaint (see **Box 3**). As time passes, owners find that they can no longer use their timeshare (perhaps due to old age or ill health) or cannot afford to keep it (due to escalating maintenance charges). It is usually at this point that they discover that their contract makes little or no exit provision and that they remain liable to pay maintenance fees. Some timeshare contracts contain in-perpetuity clauses which have the potential “to bind the estate”. In other words, after the death of the timeshare owner, their estate continues to be liable for management fees. This can have detrimental consequences for settling the estate and dividing its assets amongst beneficiaries.

3 What are ‘in-perpetuity’ contracts?

- Some timeshare agreements are made in-perpetuity (i.e., as everlasting contracts).
- This means that the right to the property and all associated costs lasts for the owner's lifetime and, in some cases, can extend beyond the owner's death.
- In-perpetuity clauses make timeshare contracts very difficult to break.
- There is no EU or UK law allowing people over the age of 75 to relinquish their timeshare without penalty. However, there is existing UK legislation that might assist the UK consumer.

Although the owner could try to sell their timeshare, the secondary market may be dormant. According to the CMA, some owners have spent years trying to sell their timeshare without success.¹⁴ In its 2014 report on the [Disposal of Timeshares and Other Long-term Holiday Products](#), the CMA points out that since timeshare owner cannot leave without finding a replacement, “incentives for developers/owner committees to offer market resale opportunities to new customers, to diversify into the rental market, or to reduce the number of units at the resort, are not as strong as they might be”.¹⁵ It suggests introducing some form of obligatory legal right to exit a timeshare contract (see below to section).

4.4 Spanish Supreme Court judgment

In May 2015, the Spanish Supreme Court ruled that an “in-perpetuity” clause included in a timeshare contract (between a Norwegian individual and the Gran Canaria based Anfi Group) was illegal under Spanish law. Spanish law states that timeshare contracts signed after 15 January 1999 cannot last more than 50 years. Anfi argued that it was within its rights to sell timeshares in-perpetuity after this date as the units were built before the Spanish law was introduced and as such, the legislation did not apply. However, the court disagreed and ruled the whole timeshare contract invalid.

At the time, there was speculation that this ruling could have significant repercussions for timeshare operators and might help UK owners of Spanish timeshares looking to exit costly timeshare arrangements.¹⁶ However, this court ruling covers the specific facts of a particular case.

¹⁴ Competition and Markets Authority (CMA), [Disposal of Timeshares and Other Long-term Holiday Products – A Report for BIS and the European Commission](#), July 2014

¹⁵ Ibid, p.10

¹⁶ [“Timeshare horrors: fresh hope for 100,000 people locked in costly contracts”](#) Telegraph, 30 May 2015, (accessed 15 March 2021)

4.5

Susceptibility to scams

There are many individuals willing to take advantage of timeshare owners by the mis-selling of holiday products or timeshare exit schemes. Before agreeing to any timeshare termination or exit procedure, independent legal advice should be sought.

A few businesses offer so-called “buy-out” schemes to enable people to terminate their timeshare ownership. BIS (now the Department for Business, Energy and Industrial Strategy (BEIS)) has warned against using these schemes. Specifically, it stated that UK consumers experiencing problems with their timeshare should be extremely cautious before committing to selling their property to, or with the help of, any company without first seeking legal advice.¹⁷

BEIS regularly receives reports and complaints about the trading activities of some timeshare resale companies who approach timeshare owners (often by cold calling) and offer them a marketing service for an upfront fee. This can then lead to requests for “add on fees” to cover lawyers, land registry, tax arrears etc. These companies claim to have potential purchasers wishing to buy at good prices but once the fees are paid sales rarely take place and, where they do, it is often at a selling price that barely covers the fees. According to BEIS, resale companies may also try to persuade the timeshare owner to buy a better property on the understanding that he or she will sell the current property. The sale never happens, and the owner is left with two timeshares.¹⁸

¹⁷ See Department of Business, Innovation and Skills, [Consultation on Implementation of EU Directive 2008/122/EC on Timeshare, Long-term Holiday Products, Resale and Exchange Contracts](#), July 2010

¹⁸ Ibid

5 Consumer detriment

5.1 CMA report: disposal of timeshares & LTHPs

In July 2014, the CMA published a report on the “[Disposal of Timeshares and Other Long-term Holiday Products](#)”.¹⁹ In this report, it identified significant consumer detriment caused by difficulties associated with exiting or terminating a timeshare contract. A main concern was that some businesses were continuing to use contractual terms that were potentially unfair to consumers.²⁰ The CMA’s general conclusion was that, in certain important regards, “existing UK law appears to be, at best, unclear as to how it may be of assistance to owners who no longer wish to keep their timeshare or LTHP.” The legal complexities, jurisdictional issues, and the need to take court action mean that there is little scope for consumers to help themselves, in addition to creating a significant degree of uncertainty as to the protection consumers have when trying to exit timeshare.

The CMA recommended the introduction of a mandatory legal right to exit a timeshare. To be effective, it would need to have retrospective effect, applying to all existing agreements (not just new ones). However, the CMA said that legislators would need to strike the right balance between the interests of exiting and remaining timeshare owners, so to “ensure that a legal change did not, inadvertently, bring about a net reduction in total consumer welfare.”²¹ In making this recommendation the CMA highlighted the ‘Israeli model’ (see **Box 4**).

4 The Israeli Model

Israel brought into force a law giving timeshare owners the legal right to exit a timeshare contract – this right applying to all existing as well as new timeshare owners. Points to note are as follows:

- An amendment to consumer protection law enables timeshare owners to cancel timeshares agreed before 24 March 2014 by simply sending a written notice.

¹⁹ Competition and Markets Authority (CMA), [Disposal of Timeshares and Other Long-term Holiday Products – A Report for BIS and the European Commission](#), July 2014

²⁰ Ibid, page 21

²¹ Ibid, page 12

- The cancellation will come into effect at the end of the following annual period.
- The law prohibits the charging of a cancellation fee but requires the timeshare owner to pay the next year's management fee.
- This law came into force on 24 September 2014 and applies to timeshares located in Israel.

The CMA also recommended introducing a prohibition on “estate binding” clauses (i.e., in-perpetuity clauses), either as part of a new legal right to exit or as a new stand-alone measure. The CMA said that no UK estate should be bound by an ongoing liability for a timeshare or other LTHP beyond death where all beneficiaries have disclaimed the property. In such circumstances, the CMA said that the executor of the will or administrator of the estate should be able to disclaim the liability and distribute the remaining estate without restriction or challenge.²²

However, the CMA qualified its recommendation in two respects:

- First, the CMA said that owing to the limits of its review it had not gathered data that would have quantified exit problems and their harms. Such data would help establish the extent to which a new legal right to exit a timeshare contract would be an appropriate and proportionate response.²³ Second, the CMA said it had not explored the detail of what a new legal right to exit would look like. It suggested that getting these details right would be essential if the right balance is to be struck between the interests of timeshare owners and businesses.²⁴ In its report the CMA recognised that some positive changes have already been made, for example, in-perpetuity clauses are now rare in new timeshare contracts. However, it remains concerned that many timeshare owners are still locked into contracts where the only exit route comes with restrictions.

5.2

EC report: operation of the Timeshare Directive (2015)

In 2015, the European Commission reported on the operation of the Timeshare Directive (2008/122/EC).²⁵ Its [report](#) concluded that the “Timeshare Directive

²² Ibid

²³ Ibid

²⁴ Ibid

²⁵ [Report on the evaluation of Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts](#), COM (2015) 644 final, 16 December 2015

appears overall to be a useful tool in protecting consumers in this specific holiday sector”.

The EC agreed that the termination of timeshare contracts (which falls outside the scope of the Directive) remain a problem for many owners. However, it disagreed with the CMA on the need for a specific, EU-wide legislative intervention.²⁶ It thought such intervention could challenge general principles of non-retroactivity of new EU legislation and of proportionality.²⁷ Instead, the EC suggested that these exit problems could be better addressed through:

- targeted interventions at national level efficient self-regulatory measures and better enforcement of other relevant EU consumer law. The relevant extract from the [EC report](#) (with footnotes) is reproduced below:

Research has shown that terminating the timeshare contract is one of the most problematic issues for consumers. The procedures and conditions for terminating timeshare contracts vary across Member States. Problems have been reported relating to perpetuity or very long-term clauses attached to timeshare contracts, which have a bearing when the timeshare owner dies, and the beneficiary wishes to terminate the contract. Such clauses could and should be challenged under the Directive 93/13/EEC on Unfair Contract Terms. However, most timeshare owners are seemingly unaware of this legal possibility.

This can be changed through a more proactive attitude from the national enforcement authorities, increased awareness-raising activities at national level and, where appropriate, targeted legal actions by timeshare owners' associations or consumer organisations. The situation is more complex in certain countries (such as Italy, Spain, Portugal and France) where a timeshare right is regarded as a right on a real estate property (and hence timeshare owners must be registered in the national land registers). Since they are then seen as intrinsically linked to the real estate property at stake, such contracts are automatically inherited with almost no possibility for the beneficiary to terminate them, unless they succeed in selling them to someone else. Recent legislative developments in some of these countries (in particular France) aim to resolve the situation by allowing the beneficiary to exit the contract within a certain timeframe.

The impossibility of terminating existing timeshare contracts was addressed in an interesting way by a non-EU country, where timeshare owners were facing these problems.²⁸ Industry has also taken self-regulatory steps to address this problem; for example, the Resort Development Organisation [RDO] requested all of its members to put an exit programme in place for timeshare owners who wished to terminate their timeshare contracts by the end of 2012.

²⁶ Ibid, p.8

²⁷ Ibid, p.8

²⁸ The Israeli Model

6

Parliamentary Questions

On 26 April 2018, Andrew Griffiths, then Parliamentary Under-Secretary for Small Business, Consumers and Corporate Responsibility, provided the following written answer to a PQ asked by Drew Hendry MP on whether the Government plans to update the timeshare regulations to address issues around trying to relinquish timeshares:

The apparently perpetual nature of some timeshare contracts, or the absence of clauses in contracts covering the circumstances under which consumers might bring the agreement to an end, were not covered by the Timeshare Act 1992 or the former (1994) Timeshare Directive which applied at the time most of these contracts were agreed.

In 2011 new Timeshare, Holiday Products, Resale and Exchange Regulations 2010 legislation came into force to give effect in the UK to a new European Directive. This provides improved protections for consumers buying and selling timeshares and other long-term “holiday club” memberships including provision for consumers to withdraw from the contract.²⁹

Presumably, the provision being referred to is the cooling-off period enabling consumers to withdraw from new timeshare contracts without penalty.

On 9 July 2018, Martyn Day MP asked whether the Government had assessed the effectiveness of legislative provisions in protecting those who purchased a timeshare before the 2010 regulations came into force. Andrew Griffiths gave the following written response:

We have not made such an assessment however we recognise that before the introduction of the Timeshare, Holiday Products, Resale and Exchange Regulations 2010, UK consumer’s received consumer protections under the Timeshare Act 1992. The previous regulations did not include provisions to protect consumers from the apparently perpetual nature of some timeshare contracts. The new regime provides improved protections for consumers buying and selling timeshares and other long-term “holiday club” memberships including provision for consumers to withdraw from the contract. At the time of implementing the 2011 Regulations an impact assessment was undertaken.³⁰

²⁹ [WPQ 136940](#)

³⁰ [WPQ 162100](#)

7

Where to go for help

The rights and liabilities arising from a timeshare can be difficult to understand, often involving different areas of law (e.g., property and contract law). For some UK timeshare owners there is the added complication that a foreign law governs the contract. Sometimes, a timeshare located in one country is owned by a company based in another country, and it may be managed by a company based somewhere else.

The timeshare owner might wish to seek proper legal advice based on a full appraisal of the contractual terms and conditions agreed. A Library briefing paper, [Legal help: where to go and how to pay](#), may help.

Legal advice might also be sought free of charge from [Citizens Advice](#); [Citizens Advice Scotland](#); or [Citizens Advice Northern Ireland](#). Each website either provides a list of offices or contains a useful search tool to help people to find their nearest Citizens Advice Bureau.

Another useful resource might be [EUROC](#), the European representative for timeshare owners' committees launched in 2019. According to its website, it provides support to resort committees, protects their owners, and operates a code of conduct.

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