



AUSTRALIAN TIMESHARE
HOLIDAY OWNERSHIP COUNCIL

ANNUAL INDUSTRY REPORT TO ASIC

For the Calendar Year 2017

Submitted, August 2018

1. PERFORMANCE AS A SUPERVISOR (8.1.5)

Following the election of Directors/ Office Bearers following the September 2016 AGM, the Code Administrative Committee elected by the Board for 2016 to 2017 are:

- Enzo Daquino (Independent Chair)
- Ivan Hill (Board Member)
- Donna Borthwick (Alternate Board Director- Wyndham Vacation Resorts)

ATHOC has the ability to discipline Members who breach ATHOC's Constitution, Code of Practice or the ATHOC Agreement.

ATHOC has undertaken investigations in relation to consumer issues raised, and regarding public feedback.

The Board of ATHOC is committed to undertaking disciplinary action as necessary.

2. SUMMARY OF MAJOR ISSUES BEING ADDRESSED

All Members have been asked to identify emerging issues which are both specific to their operation and to the Australian timeshare industry. The Board of ATHOC will consider all emerging and ongoing issues.

- **Consultation Paper 272 ("CP 272"):** Awaiting final review of the class orders relating to time-sharing schemes together with the review of *Regulatory Guide 160: Time Sharing Schemes* ("RG160"): ATHOC has worked with ASIC in providing industry with all data requested throughout the last year. A number of face to face and teleconferences have also taken place to discuss the key policy changes under consideration by ASIC.

ATHOC appreciates the opportunity given by ASIC throughout the entire process.

- ATHOC made a number of submissions to Treasury and ASIC on behalf of the industry this year regarding various proposed legislative changes that could have an effect on the industry or its members. This includes submissions relating to the implementation of the Australian Financial Complaints Authority, Professional Standards of Financial Advisers and Code of Ethics and the ASIC Industry Funding Model.
- **External Dispute Resolution Scheme Review**– the government has announced that CIO and FOS will be replaced by the Australian Financial Complaints Authority (ACFA) a "one-stop shop" for financial disputes from 1 July 2018. Concerns over the proposed "enhanced" oversight and monitoring powers to be granted to ASIC and reporting obligations of the IDRS have been raised.
- **Consultation Paper – ASIC Product Intervention Power.**
- **Corporations Act Amendment (Professional Standards of Financial Advisers)**
- **Self-Reporting contraventions**

- **ASIC Cost Recovery**
- **Submission FASEA** – Code of Ethics
- **CP 298 Oversight** of the Australian Financial Complaints Authority: Update to RG 139

OTHER ISSUES ADDRESSED OR CONSIDERED

- The majority of discussions with ASIC to date relate to CP272 and the review of the various class orders and RG160. The review was triggered as the result of the sun setting of a number of class orders and update to other requirements within the guidance. These discussions with ASIC are ongoing.
- Clubs winding up. During the reporting period, the members of Surfers Royale Resort in Surfers Paradise voted to wind up the scheme and sell the property. This sale was undertaken by tender and the proceeds of sale, after deduction of all costs, were distributed to the members and this process has now been completed.
- The members of Tiki Village have also agreed at an AGM that the property is to be sold and the scheme is to be wound up. It is currently on the market. Once sold and all costs paid, the balance of proceeds of the sale will be shared amongst the members.
- Resale of product (specifically traditional sold out timeshare schemes) does remain an issue with constant discussion on how this situation can be improved for the benefit of consumers. One new resale company Timeshare Brokers Pty Ltd has recently been established and has joined as a member of ATHOC.
- The Board has proposed an industry supported policy on hardship. Further details are to be finalised in conjunction with the CP 272 review of class orders and RG160, as relief will need to be granted by ASIC.

ONGOING UNRESOLVED PROBLEMS

- **Sold Out Schemes** – as mentioned in previous reports, ATHOC has had much discussion with ASIC on the issue of finding delinquent owners. These issues are still ongoing. We have tried many avenues with different State Governments with no success to date.
- **Splitting of Shares and Titles** – This is ongoing with some sold out Schemes.

3. COMPLAINTS REFERRED TO ATHOC

3.1 Complaints from Members against other Members

Under the Code of Practice, written complaints by Members against other Members must be referred to the Board.

- During the 2017 year, no formal complaints were received from Members about other Members.

3.2 Complaints from consumers/owners against Members

ATHOC members must each maintain membership of an external complaints resolution scheme - either Financial Ombudsman Service ("FOS"), or Credit Investments Ombudsman ("CIO", formerly Credit Ombudsman Service Limited) to be replaced by the Australian *Financial Complaints Authority* from 1 November 2018.

Any consumer complaints received by ATHOC are referred to the relevant Members Internal dispute resolution Scheme for review, and if the result is unsatisfactory, the consumer can escalate their complaint to FOS or CIO as applicable. Members subsequently provide their complaints reporting to ATHOC on an annual basis, unless a consumer (or member) raises a potential breach of the Code of Practice, which is then considered by the Code Administrative Committee.

In the 2017 calendar year there was only 1 dispute that was dealt with by the Code Administrative Committee.

If ATHOC determines that any complaints are not appropriately resolved by Members, ATHOC will escalate the complaint to the relevant regulatory body in that State or directly to FOS/CIO dependant on the circumstances of the complaint.

The office of ATHOC continues to work with State and Federal Regulatory bodies and the consumer protectorate area of ASIC as necessary in providing information and assistance to consumers. ATHOC also reports any inappropriate activity by non-member companies.

Consumers are referred to ATHOC by these bodies to verify membership of the organisation, information about ATHOC'S Code of Practice and Ethics and follow-through with any matters relating to Members.

ATHOC will continue to require that all members complete their Membership compliance obligations and provide their complaints log annually.

4. Change in ATHOC Membership

Tiki Village Surfers Paradise has cancelled its membership as the scheme is winding up. The members of the Scheme determined via vote to sell the scheme and the proceeds of the sale after expenses will be distributed amongst the members.

Sunraysia Resort renewed its membership with ATHOC following a period of absence.

Appendix 1 lists the number of complaints received by members and the time frame that they are dealt with.

Appendix 2 lists the number of complaints received by FOS and their determinations.

Appendix 3 lists the number of complaints received by CIO and their determinations.

APPENDIX 1

Australian Timeshare & Holiday Ownership Council Ltd

Complaints Report 01/01/2017 to 31/12/2017

The log below is collated from the complaints reporting provided by ATHOC Members. Approximately 56% of complaints received by Members are related to sales, but not necessarily in relation to a sale that had taken place within that year. The remaining 44% of complaints relate to resort based issues that have been raised by Members.

178,000 people own timeshare in Australia, with around 1 million Australians involved in timeshare, either directly or indirectly.

Approximately 180,000 sales presentations were given throughout the calendar year.

Number of complaints	1431
Number Resolved Internally	1380
Number Resolved within 1 month	771
Number Resolved 1-2 months	451
Number Resolved 2-3 months	93
Number Resolved in 3+ months	65
Number Referred Elsewhere	51

Note: The above period relates to the time within which the file is closed/remediation made – it does not relate to the date on which the final determination was given by the Member to the consumer. All ATHOC members are aware of the regulatory timeframe within which they must review and respond to all complaints and the guidance provided by ASIC in *Regulatory Guide 165 Licensing: Internal and external dispute resolution*.

APPENDIX 2 – Disputes Registered with FOS

FOS Timeshare Disputes Received and Closed during January to December 2017	
Number of Timeshare Disputes Received	44
Number of Timeshare Disputes closed	39

Disputes closed by Outcomes		
Resolved by FSP	12	31%
Negotiation	8	21%
Outside Terms of Reference	7	18%
Discontinued	6	15%
Preliminary View in Favour of Applicant	3	8%
Conciliation	2	5%
Assessment	1	3%
Grand Total	39	100%

Notes:

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- 1. Data captured Timeshare scheme disputes only.
- 2. Data captured as at 1 January 2018.
- 3. Data variation may occur due to reopens, entered in errors or case actions being back dated.

APPENDIX 3 – Disputes Registered with CIO

CIO Disputes – January 1, 2017 to December 31 2017

	Timeshare	Finance for timeshare	Total
Number of complaints received	47	38	85
Number of complaints closed	64	61	125

	Timeshare	Finance for timeshare	Total
Settled	54	50	104
Decision in favour of member	2	2	4
Decision in favour of consumer	-	1	1
Complaint withdrawn	5	8	13
Inappropriate respondent or outside CIO's jurisdiction	3	-	3
Total	64	61	125