



Timeshares: Parliament and Council agree new rules

The timeshare holiday rights of some 1.5 million European families will soon be better protected, as MEPs endorsed a compromise reached between Parliament and Council on the new Timeshare Directive. The directive seeks to enhance consumer confidence and legal clarity, which are essential to the growth of this sector, via simplified EU-wide rules. The resolution was adopted with 674 votes in favour, 16 against and 10 abstentions.

Timeshare deals, which allow buyers to occupy holiday accommodation for specific periods in alternation with others, have won millions of takers worldwide since the 1970s. They are often sold as a cost-effective alternative to renting, hotels or a second residence. According to the Organisation for Timeshare in Europe, in 2001 there were 1.452 holiday centres in 25 European countries, 1.4 million families using this kind of accommodation and 200,000 Europeans employed in the sector, with sales totalling €2.3 billion per year. Most timeshare holidaymakers are from Germany or the UK, where most of the agencies are located, while most of the holiday centres are located in Spain, Italy, France and Portugal.

Why a new directive?

Since 1994, an EU directive has helped to harmonise timeshare rules across the EU, but litigation between operators and holidaymakers is still frequent, notably over conditions and quality of service.

Furthermore, new holiday products and services, similar to timeshare but not covered by the directive, have emerged. These include new types of holiday clubs giving holidaymakers reductions in the cost of their stays if they take out a subscription. Some of these new contracts clearly circumvent consumer protection rules.

The revised draft directive, which supplements the general rules introduced by the recent directive on unfair commercial practices, will cover both timeshare packages and new products that so far have escaped any legislation. Consumers will be better protected by rules that clearly state their rights, and will find it easier to go to court. Honest operators will no longer have to face unfair competition from fraudsters.

Content of the new directive

The directive lays down new rules on the right of withdrawal, choice of contract language, pre-contractual information and a ban on taking deposits during the cooling-off period.

The directive's scope is also broader than the old legislation. "Long-term holiday products" (holiday clubs), which were less common at the time the original directive was adopted, will fall within its ambit, as will re-sales and exchanges of timeshares.

It will cover not just traditional property timeshares but also boats, caravans and cruise ships marketed under timeshare or holiday club contracts.

The legislation applies to contracts for "more than one period of occupation" of the accommodation (i.e. repeated visits) concluded for a period of more than one year (previously three years). Any ancillary contracts will be cancelled if the consumer withdraws from the main contract.

A key point introduced by MEPs is a provision for staggered payments for holiday clubs: buyers will pay equal yearly instalments rather than a lump sum up-front.

MEPs also successfully defended the 14-day cooling-off period granted to buyers after signing a timeshare contract, as proposed by the Commission, against Council's wish to shorten it to 10 days.

Lastly, Member States will have to encourage the creation of effective out-of-court complaints and redress procedures for settling consumer disputes and must encourage traders to inform consumers of such procedures.

British speakers in the debate held in Strasbourg on 22 October

Malcolm **Harbour** (EPP-ED, UK) said: "If you look at the advertising clause it is now clearly spelt out that any promotional activity in relation to a timeshare or holiday club has to be clearly shown and designated in advertising as such. Also, the standardised information that we have asked to be available has to be available at all times at any sort of promotional event, so there can be no question of people being misled by some attractive trip, visit or offer. It has to be absolutely clear what it is they are talking about, and that it should not be sold as an investment. Overall, this is a major advance in consumer protection. I fully commend it and I am sure that it will get the overwhelming support of the House today."

Arlene **McCarthy** (PES, UK) said: "This timeshare law is long overdue. With this law, consumers must be given the key information on the standard information sheet – including all fees and charges – and, if the company fails to provide it, the law extends the right of withdrawal to three months. Failure to inform the consumer of the right of withdrawal extends the right of withdrawal to one year. These really are good rights for consumers. They will turn our traders into responsible traders and we will have informed and protected consumers, which means we can drive out of the market the dodgy dealers and the scam merchants. "

Philip **Bradburn** (EPP-ED, UK) said: "Extending the scope to cover holiday clubs and other similar products is a great step forward in protecting the consumer from what had previously been an easy target for the unscrupulous tout. This directive certainly shows that the EU is taking steps to stay ahead of the game. I have to admit, however, that I am disappointed that Parliament had to give way on a provision calling for cooling-off periods of 21 days in order to reach agreement with the Council. However, this is not to say that the improvements made had no effect on the current directive and, in fact, it is to be welcomed that no upfront payments have to be made until the end of the cooling-off period."

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