



AUSTRALIAN TIMESHARE
HOLIDAY OWNERSHIP COUNCIL

ANNUAL INDUSTRY REPORT TO ASIC

For the Calendar Year 2018

Submitted, June 2019

1. PERFORMANCE AS A SUPERVISOR (8.1.5)

Following the election of Directors/ Office Bearers following the September 2018 AGM, the Code Administrative Committee elected by the Board for 2017 to 2018 are:

- Enzo Daquino (Independent Chair)
- Stephanie Kewming
- 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 outcome 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 data as 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. 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. The industry is keen for ASIC to finalise this and implement the recommendations as it has now been dragging on for a number of years.
- 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.
 - *Consultation Paper – ASIC Product Intervention Power – Treasury Laws Amendment.*
 - *Corporations Amendment (Professional Standards of Financial Advisers)*
 - *ASIC Cost Recovery:* the industry has seen the first invoices and note that the costs invoiced to some members have been significant.
 - *Senate Standing Committee on Economics*
 - *Review of the financial system external dispute resolution and complaints framework*

- **Submission FASEA – Code of Ethics** – you will be aware that ATHOC has also put in a submission for the ATEB to be approved. We note that cost to the industry will be in the vicinity of \$800,000 per annum to operate in line with ASIC’s recommendations, if approved.

OTHER ISSUES ADDRESSED OR CONSIDERED

- **Clubs winding up.** During the reporting period, the members of Tiki Village 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. Don Pancho Resort in Bundaberg has also been put on the market this year.
- **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.
- ATHOC do have concerns with some companies on the market that are charging vulnerable consumers a significant fee with a promise to get them out of their timeshare ownership – while failing to advise the consumer that free external dispute resolution is available. This has been raised directly by ATHOC to ASIC in November 2018 but we are still awaiting an outcome.
- **AFCA:** ATHOC have been working closely with AFCA to identify any potential issues that need addressing.
- Changes have been made to the ATHOC Code of Practice. Under section 3. Members Duties:

“3.1.7 advise ATHOC of any conduct by an Associate, Related Body Corporate or Related Financier which may bring the Industry into disrepute or damage the reputation of the Industry (including, without limitation, any disciplinary, enforcement or administrative action taken by ASIC or other regulator against such entity) as soon as practicable, and in any event within 5 Business Days, of becoming aware of such conduct;”

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 2018 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 AFCA 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 2018 calendar year there have been 4 disputes 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 AFCA dependant on the circumstances of the complaint.

The office of ATHOC continues to work with State and Federal Regulatory bodies 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 annual Membership compliance obligations and provide their complaints log annually to ATHOC.

4. Change in ATHOC Membership

Voyager Resort has cancelled its membership as the scheme is considering selling. The members of the Scheme will determine via vote whether to sell the scheme and the proceeds of the sale after expenses will be distributed amongst the members.

Pacific View 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 AFCA and their determinations.

APPENDIX 1

Australian Timeshare & Holiday Ownership Council Ltd

Complaints Report 01/01/2018 to 31/12/2018

The log below is collated from the complaints reporting provided by ATHOC Members. Approximately 44% 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 56% of complaints relate to resort or issues that have been raised by Members.

Approximately 180,000 people own timeshare in Australia, with around 1 million Australians involved in timeshare, either directly or indirectly.

Approximately 160,000 sales presentations were given throughout the calendar year.

We note that the complaints have decreased significantly on the 2017 year.

Number of complaints	780
Number Resolved Internally	726
Number Resolved within 1 month	572
Number Resolved 1-2 months	111
Number Resolved 2-3 months	43
Number Resolved in 3+ months	54
Number Referred Elsewhere	46

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 AFCA (includes previous disputes registered with CIO/FOS)

	Timeshare	Finance for timeshare	Total
Number of complaints received	15	48	63
Number of complaints closed	34	57	91

	Timeshare	Finance for timeshare	Total
Settled	24	37	61
Decision in favour of member	2	1	3
Decision in favour of consumer	3	1	4
Complaint withdrawn	3	12	15
Inappropriate respondent or outside CIO's jurisdiction	2	6	8
Total	34	57	91