

## *Advertising of timesharing*

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### **1. Preamble**

- 1.1 This appendix is supplementary to the general provisions of the Code. Special care should be taken by advertisers to ensure that the spirit as well as the letter of the provisions of the whole Code are scrupulously observed.
- 1.2 The purpose of this Appendix is to ensure that no advertising or promotional activity conducted on behalf of any Timeshare Operation or Scheme should be such as to bring timesharing into disrepute or reduce the confidence of the public in timesharing as a reputable service to the community.
- 1.3 In this Appendix, “timesharing” and “timeshare” shall mean the right to use and occupy one or more properties on a periodic basis according to an arrangement allocating similar rights of use amongst other users, however the arrangement is documented or evidenced.
- 1.4 “Promotional activity” shall mean direct person-to-person advertising or contact with a view to the promotion of timesharing, whether by telemarketing or direct marketing, through solicitation on-site or off-site or through any on-site or off-site sales, presentation or transaction including personal or electronic communication, audio-visual programmes, telephone communication, site visit or tour, or direct selling activity or any post-sale service.
- 1.5 The definition of “advertising”, as stated in Clause 4.1 of Section I of the Code, shall apply.

### **2. Conformity with legislation**

- 2.1 All advertisements for timesharing shall conform to the requirements of national and local laws and regulations promulgated thereunder.

- 2.2 In particular, in order to comply with the provisions of Regulation 3 published in terms of the Property Time-sharing Control Act 75 of 1983, any advertisement for the alienation of a time-sharing interest shall contain—
- 2.2.1 the type of accommodation concerned, such as self contained apartments, hotel room, caravan site;
  - 2.2.2 full particulars regarding the legal basis on which the time-sharing interest in the particular timesharing scheme may be acquired (e.g. Share Block, Sectional Title, etc.);
  - 2.2.3 the total number of calendar years during which a prospective purchaser of a timesharing interest in relation to a time module shall have the right to exercise his rights in respect thereof;
  - 2.2.4 the name and physical address of the timesharing scheme;
  - 2.2.5 in the event of a timesharing scheme not being complete, the intended date of such completion.
- 2.3 The type-size of the statutory information required must not be smaller than that of the body copy of the advertisement.

### **3. Information, descriptions and disclosures**

- 3.1 Information, descriptions and disclosures used in any situation, alienation, advertising or promotional activity must be accurate and clear.
- 3.2 If written, the information, descriptions or disclosures must be easily located, conspicuous and legible.

### **4. Truthful presentation**

Statements, presentations, descriptions, literature or documents used in any advertising, promotional or alteration activities—

- 4.1 may not convey false or misleading information about the product, the costs/charges or the exchangeability of the product;
- 4.2 may not omit material information without which it could have a deceptive or misleading effect on the consumer's decision to purchase;
- 4.3 must be consistent;
- 4.4 must be easily understandable by consumers.

## 5. Resale and rental value

- 5.1 Advertisements for a timeshare interest should present time-sharing as an investment in affordable holidays and not as a financial investment in terms of rental yield, return on investment or capital gain or resale.
- 5.2 If claims are made in advertising or promotional activities regarding the potential resale or rental value of the timeshare interest, such claims must be presented accurately and clearly and must be based on currently factual data.

## 6. Sales presentations

Sales personnel must be aware of the provisions of this Appendix and must not make any statements or furnish undertakings or behave in any way contrary to its provisions.

## 7. Offering of benefits

- 7.1 Programmes that include the offer or distribution to consumers of gift incentives, which includes certificates, coupons, vouchers, cheques, stamps or any other documents representing something of value, visits to a timeshare resort or attendance at any activity involving the alteration or promotion of timesharing interests, must, over and above the relevant statutory requirements, comply with the following requirements—
  - Any restrictions or conditions relating to the granting of the gift, or the redemption or use of the certificates, must be fully disclosed and precisely described at the time when such gift is offered to the public.
  - Lengthy delays, onerous procedures, or other restricting conditions that have the purpose or effect of delaying the granting of the gift incentive or of discouraging its redemption or use, may not be imposed.
  - Should the public be required to pay any money in order to make effective use of the gift incentive, certificate or document thus distributed (including for example a “reservation or administration fee”), such condition must be disclosed at the outset. No consideration or money may be made payable or accepted until the potential purchaser is made aware of all the terms, conditions and obligations upon which receipt of the benefit is contingent.

- 7.2 Whether or not any payments are involved, all terms, conditions and obligations upon which receipt of the benefits are contingent must be clearly explained to the recipient and, in particular, must clearly disclose—
- the purpose and approximate duration of the promotional activity;
  - whether participation in a sales presentation relating to a timesharing interest or tour of the timeshare resort is necessary in order to receive the benefit;
  - whether any purchase is necessary in order to receive the benefit;
  - whether any additional costs/payments are necessary in order to make a gift usable.
- 7.3 Additional or different restrictions or conditions may not be imposed subsequent to the original approach.

## **8. Gift incentive promotions**

Advertising or promotional material that offers gifts or awards as incentives for visiting timeshare resorts or attending sales presentations concerning timesharing schemes shall conform to the following conditions:

- 8.1 Any terms, conditions and obligations upon which the gift is contingent, must be clearly explained and conspicuously set out by the member so as to leave no reasonable probability that the terms of the offer might be misunderstood.
- 8.2 The description of the gifts offered shall be accurate and shall not, by omission, ambiguity, or otherwise, have the capacity to mislead as to the size, volume, value, quality, quantity or other material attribute of the gift.
- 8.3 Unless a competition is conducted, gifts or awards shall not be referred to as prizes.
- 8.4 Whenever gifts or awards of differing values are offered, a fair ratio between the more expensive gifts and those of lesser value shall be maintained.
- 8.5 When called upon to do so, the advertiser shall furnish evidence, in a form stipulated by the ASA—
- 8.5.1 that the gifts or awards offered are guaranteed or immediately available; and
  - 8.5.2 of the number of gifts or awards of each type which have been awarded in a stipulated period of time.

- 8.6 The advertiser shall display prominently, at each point of sale where the gift incentive promotion is in operation, a list of the recipients of awards worth more than R500,00 and a declaration of the total number of gifts awarded in the preceding three months. This information must also be made available to the public on request.
- 8.7 If gifts or awards may be substituted by gifts or awards of equal or greater value, this fact must be disclosed in the advertising or promotional material.
- 8.8 If gifts or awards cannot be presented at the time they are awarded, or are too bulky to be transported by passenger vehicle, they must be delivered to the recipient within 30 days, without further cost, time or travel on the recipient's part.

