

Report on 'Lyonesse' Cash Back and MLM Scheme

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Preface by Stuart Agnew MEP

A number of UKIP members have been enthusiastically pushing the use of the Lyonesse Scheme as a way of raising funds for the Party. It is essential that our members, and the wider public, understand how and why this scheme has been so controversial in many other countries.

This report gives a factual history of Lyonesse and I urge all to take careful note of the highlighted section on the UK.

Introduction

Since 2003, Lyonesse has been the registered trademark name for a group of globally distributed (mostly privately owned, limited-liability) corporate structures, which originated in Austria. Lyonesse comprises at least 7 corporations registered in Switzerland, 9 corporations registered in Austria and approximately 42 additional national and regional corporations all around the globe. The name 'Lyonesse' was derived from the Celtic mythological kingdom 'Lyonesse'. "Lyconet" has been introduced in 2014 as a new trademark name for the same group of corporations.

The main corporation, then called 'Lyonesse Holding Europe AG', was registered in 2003 by Iwan J. Ackermann, Max Meienberg and Uwe Proch. In 2004, the publicly known CEO of Lyonesse, Hubert Freidl, was hired by this corporation as a director. Lyonesse, in its entirety, has an estimated annual turnover of 1.2 billions euros (2012). The shopping community has a self-proclaimed membership of more than 5 million (as of July 2016). Lyonesse is currently active in more than 40 countries, spread over 6 continents.

History

2003

Lyonesse founded.

2004

The Austrian criminal police (Kriminalpolizei) published an article in the December issue of its organisation's magazine, in which it warned of the resurfacing of Ponzi schemes and pyramid schemes in Austria. Lyonesse was explicitly mentioned in this article. Lyonesse contested the allegations publicly.

2005

The Austrian Parliament member, Johann Maier (SPÖ) asked the then-incumbent Austrian Minister of Justice (Karin Miklantsch, BZÖ) parliamentary questions about the reports filed against alleged pyramid schemes in Austria in 2004. Lyonesse was one of the organisations that complaints were filed against.

2008

The Austrian Chamber of Labour ('Arbeiterkammer') of Steiermark issued a warning against Lyonesse, listing its alleged privacy violations, misleading advertising, deceptive information and unrealistic and negligible benefits as red flags for doing business with Lyonesse.

2010

The Swiss news sheet Beobachter, published an article by Pascale Hofmeier entitled 'Lyonesse: Hands off'. In the article, Sara Stalder of the Swiss Consumer Union and Manuel Richard of the Swiss Gambling Commission warn consumers not to do business with Lyonesse.

2012

Kleine Zeitung published an article suggesting that Lyonesse had deceived the masses by operating an irrelevant shopping community. L'Hebdo, a Swiss magazine, reproduced a story about how Lyonesse

members are told that an investment of 3,000 CHF will eventually lead to 25,000 CHF in return, if enough new, down-paying members are recruited.

Also the Beobachter published an article stating that, based on an internal Lyonesse communication, members were offered 'bounties' up to 45,000 CHF to provide 'relevant information' on Lyonesse critics. A critic from Zurich was reported to have been sued for over 1 million CHF for 'defamation' after he contacted Lyonesse partner companies in Switzerland in an attempt to explain the business model of Lyonesse to them. The article also reported that the Lyonesse business model seems to revolve around recruiting activities instead of discounts and that Lyonesse is internationally charged with forgery, fraud and hosting a pyramid scheme and in July Der Standard reported that the Austrian Economic and Corruption Prosecutor ('WKStA') has been granted jurisdiction to investigate and prosecute Lyonesse in Austria. The Swiss Handelszeitung mentioned a court case Lyonesse lost, which revolved around the question as to whether Lyonesse should have issued a financial prospectus before asking investors to finance their foreign-markets advertising campaigns.

In September, the same newspaper reported that major, alleged Lyonesse partners in Switzerland (Microsoft and Kuoni Travel) had announced that they were not going to continue the partnerships.

2013

The Wiener Zeitung reported that a pending lawsuit initiated by the Austrian Consumer Organisation 'VKI', contesting 61 clauses of Lyonesse 'General Terms and Conditions', which it called opaque, uncertain, and/or meaningless. Eric Breiteneder, hired as a legal representative by the organisation, also referred to the concepts used to distinguish various parts of – and benefits within the Lyonesse business model as vague and/or undefined elsewhere.

The Handelszeitung reported suspicions that high-level Lyonesse members were earlier involved in (other) pyramid schemes, like the

'Spirit of Independence'. It also mentioned a system called 'GTS' (Global Trade System), operated by Erin Trade SA, as a former organisation tied to Hubert Freidl. Like Lyonesse, this company has been called a pyramid scheme in the public debate. The Kleine Zeitung reported that various experts were investigating the 'investment schemes' for advertising campaigns organised by Lyonesse, and whether a prospectus was required before attracting capital from investors. Professor Susanne Kalls, hired by Lyonesse, concluded that no capital market regulations were violated by not issuing a prospectus: however attorney Karl Hengstberger came to the opposite conclusion but agreed with Professor Susanne Kalls that the Lyonesse business package does not constitute an investment. In the same article, Mathias Vorbach, spokesman of Lyonesse, admitted that Lyonesse may have had some trouble before, but that those days were in the past. However, the Beobachter, after reportedly reviewing internal Lyonesse documents, published an article suggesting that 99.7% of the Lyonesse turnover was derived from down-payments on future purchases and not from actual shopping or discounts.

Also Professor Peter Lewisch a criminal law expert was hired to assess whether the company's business model violated the Austrian law concerning illegal pyramid schemes. Lewisch argued in September of 2013 that Lyonesse was not a pyramid scheme under Austrian legislation. However, the judges of the regional court in Krems, Austria concluded that the business model of Lyonesse is so "Ponzi-Scheme-like" that contracts between Lyonesse and its business partners were not valid. Also, Lyonesse had been declared a pyramid scheme by at least four independent civil courts in Austria and it was reported that the Austrian Consumers Union had filed suit against Lyonesse for providing participants with unclear and deceptive terms and conditions. VKI is representing clients who contend they invested money in the advertising campaigns organised by Lyonesse, together with several option trading packages but were not provided with a prospectus. VKI won their case against Lyonesse and the court ruled that the 61 contested clauses were indeed unlawful, making the

contracts between Lyonesse and its premium members not legally binding under Austrian law. Further civil proceedings are being combined into a class-action lawsuit worth millions euros, initiated by process financier Advofin, and supported and recommended by the Austrian Consumer Union (VKI). The lawsuit will be filed in Amsterdam.

Outside of its home countries, Lyonesse has also been confronted with scrutiny from authorities. Reportedly, similar investigations were started in Hungary; Norway; Poland; Lithuania; Sweden; Australia; and Greece.

In Hungary, Lyonesse was fined by the authorities for illegal advertising. In Lithuania, the authorities decided not to pursue Lyonesse. In December 2013, Norwegian authorities announced a full investigation of Lyonesse on the suspicion of operating an illegal pyramid scheme. Lyonesse received 3 weeks to respond to the announcement. Following an investigation of several months, the Norwegian Gaming Board concluded that Lyonesse IS NOT operating an illegal pyramid scheme in Norway in 2012 and 2013.

2014

After the investigation had been announced in Norway, it was found that less than the legal barrier of 50% (43%) of Lyonesse's revenue was derived from recruiting, making them eligible to continue operation under Norwegian law. In Poland, the OCCP called Lyonesse a pyramid scheme, but the current status of the investigation is unknown. In Sweden, the responsible authority concluded that Lyonesse is a pyramid scheme and reported Lyonesse to the Stockholm police. While initially halted, an appeal by the Gaming Board led to a continuation of the investigation by the Stockholm Police.

In Australia, The Competition and Consumer Commission (ACCC), after researching Lyonesse for a while, instituted proceedings against Lyonesse International AG, Lyonesse Asia Limited, Lyonesse UK Limited

and Lyoness Australia Pty Limited (together 'Lyoness') for operating a pyramid selling scheme and engaging in referral selling. The ACCC alleged that Lyoness had operated the scheme in Australia from mid-2011 and that it continued to operate the scheme. The scheme offered 'cash back' rebates to members who shopped through a Lyoness portal, used Lyoness vouchers or presented their Lyoness card at certain retailers. Whilst cash back offers themselves were not prohibited by the Australian Consumer Law, the ACCC alleged that the Lyoness scheme also offered commissions to members who recruited new members who made a down payment on future shopping. The trial has ended and the judgment was reserved.

2015

In Greece, an arrest warrant was issued in August against the Austrian directors of Lyoness Greece. On the 10th of August the Prosecutor of Thessaloniki Court of First Instance issued an arrest warrant against Herbert Teissel and his wife Anna Teissel, alleged directors of Lyoness Greece, for attempted fraud. Lyoness vehemently denied all allegations.

Lyoness UK

Lyoness UK Limited is an active company incorporated on 12 June 2009 with the registered office located in City of London.

Lyoness UK Limited has been running for 7 Years 4 Months. There are currently 1 active director and 0 active secretaries according to the latest annual return submitted on 17 May 2016. The company is apparently run by one man, Christopher Norman THOMSON - Director of 47, York Street, London, W1H 1PW: **the other 4 company officers have resigned.**¹ The company address is 12-14, Mason's Avenue, 1st Floor, London, EC2V 5BT. Phone: +44 (0) 20 7629 3493, Fax: +44 (0) 20 7499 5775, E-Mail: office@lyoness.co.uk and Net: www.lyoness.co.uk

International structure

Lyoness claims it has 5,300,000 members and 60,000 merchants these being MLM (Multi Level Marketing) companies.²

Conclusion

In October 2015, the Australian Federal Court found that the loyalty program was not a pyramid scheme as the Australian Competition and Consumer Commission (ACCC) had originally claimed. The latest decision in Austria also declared that Lyoness scheme is not classified as fraud or an illegal pyramid scheme by the Austrian Economic and Corruption Prosecutor ("WKStA"). In April 2016, the Vienna Regional Court stated that Lyoness was not a pyramid scheme.

However, this system of MLM is sailing close to the wind and verges on pyramid selling. The issue stems from the main merchant focus being for reward by recruitment rather than by selling a product.

Clearly it is not overtly illegal or it would have been shut down in the UK by now but the baggage that this organization carries is significant as described in the section headed "History". Also the rewards offered are difficult to earn and require disproportionate prior investment.

References

¹<https://beta.companieshouse.gov.uk/company/06932198/officers>

²<http://www.lyoness-corporate.com/en-US/Company/Organisation/>