

Trends in Consumer Issues

An overview of the number of consumer consultations and trials related to the Consumer Contract Law - Two years since the act came into effect

Nearly two years have passed since the Consumer Contract Law came into effect on April 1, 2001 as a set of comprehensive civil rules covering consumer trading. The NCAC has been issuing reports on the progress of related matters since that time. In the present project, the NCAC reported the number of related consumer consultations and an overview of the trials performed over the past two years since the Law came into effect. No remarkable changes were noted in the trends in consumer consultations, while the overview indicates such developments as the issuance of several court decisions on college tuition and admission fees.

● Numbers of consultations related to the Consumer Contract Law

A total of 3,405 consumer consultations related to the Consumer Contract Law were received by the NCAC and local consumer centers from April 1, 2001 through March 31, 2003 and monitored by the PIO-NET ("Practical living Information Online **NET**work") by the end of June 2003. The breakdown of these is: 2,871 consultations (84.3%) related to Article 4, which sets forth how a contract came to be established, and 492 consultations (14.4%) related to Articles 8 through 10, which set forth wrongful provisions. An analysis of the consultations related to Article 4 by item indicates that "false information" is the most common complaint (1,592 consultations), followed by "detention in a room (prevention of leaving)", with 686 consultations.

- What are consumer consultations related to the Consumer Contract Law?

This refers to the consumer consultations which were stored in the PIO-NET, and which involve consumers having established contracts with dealers on or after April 1, 2001 when the Consumer Contract Law came into effect, and concerning which the consumer centers in dealing with those consultations used the Consumer Contract Law. These consultations do not include those which are considered to be related to the Consumer Contract Law but which were resolved under the cooling-off system, set forth in such laws as the Law Concerning Specified Commercial Transactions and other regulations.

● Overview of court decisions related to the Consumer Contract Law

As of November 1, there were 13 court decisions given in accordance with the Consumer Contract Law and collected by the NCAC. Three decisions had been given in accordance the Consumer Contract Law by the time they were collected in June 2002. Of the 13 decisions, three were published: the decision given by the Tokyo District Court on March 25, 2002; the decision given by the Osaka District Court on July 19, 2002; and the decision given by the Kyoto District Court on July 16, 2003. Five of them are related to numerous lawsuits that occurred nationwide seeking the return of tuition and admission fees from colleges, vocational schools, and other schools, starting from the turning point of the "Emergency call number 110" program launched by a group of lawyers and other people. A few decisions were given in accordance with the Civil Code concerning contracts established before the Consumer Contract Law came into effect. Some other decisions are scheduled to be given. The current legal opinion is that admission fees with regard to contracts established soon after the Consumer Contract Law came into effect are not eligible for refund but that tuition fees should be returned.

Yet another development is that consumers sought the annulment of the contracts they established as

per Article 9 of the Consumer Contract Law, but that the claim was rejected as contracts established before the Consumer Contract Law (Fukuoka Summary Court, November 19, 2001). The decision indicates that the Interest Limitation Law is given priority even if a specific contract was established after the act came into effect.

There was another development: Concerning contracts established before the Consumer Contract Law came into effect, a court decision recognized that a violation of accountability according to the intention of the Consumer Control Law had occurred and decided that a part of a PC training course fee should be returned (Otsu District Court, October 3, 2003).

2003's Top Ten Issues in Consumer consultations

The NCAC selected and summarized the ten items which attracted the most complaints and inquiries or which increased quickly, or which attracted public attention from January through October 2003. Here is an overview:

1. Rapidly increasing consultations

The number of consultations is increasing rapidly. In 2003 (January to October), the NCAC received 750,000 complaints and inquiries, up 40% from the same period of 2002. Most notable is that about one quarter of the total number of consultations of 2003 was related to information services over the telephone network.

2. Free loans and consumer loans

Consultations related to free loans and consumer loans are increasing every year. The NCAC received about 110,000 complaints and inquiries in 2003 (January to October). The predominant case concerned wrongful billing. Also noted were cases about loans at high interest rates far exceeding the legal limits and about multiple debts.

3. Fictional billing

Many consultations were about bills for sums of money that the consumers did not recall owing, from people claiming to be credit collectors. Many consultations were about bills for charges for information services over the telephone network which the consumers did not remember using or bills for loans that the consumers did not remember receiving. These bills were sent to the consumers in various ways, including email, postcard, telephone, and telegram.

4. Financial products

In this age of very low interest rates, there are growing numbers of complaints and inquiries related to financial products. In addition to businesses involved in margin trading in foreign currency, which is the source of a rapidly growing number of consultations these days, such matters as trading futures options on foreign products and mutual aid programs with no legal basis involve a number of institutional problems. For example, no law specifies an administrative agency to be in charge of such dealers.

5. TV shopping

Growing numbers of consumers are watching shopping channels on TV. Consultations related to TV shopping are therefore showing an upward trend. Problems include cases where consumers did not obtain what they had expected based on the television ads they saw, in terms of the effects and performance of the products.

6. Dubious employment services

The NCAC received many complaints and inquiries concerning dubious employment services, where dealers make proposals to consumers to the effect that "we introduce jobs offering good pay", perhaps reflecting the prolonged economic recession, and where they attempt to sell expensive products and services which they claim to be needed for the jobs that the consumers are to obtain. These jobs include PC-based jobs at home and audio-typing.

7. Services with a long duration

Consultations related to services provided over a prolonged period stand out as source of problems. Particularly notable are consultations related to "PC training courses," "partner finding services," "training courses for various kind of sports," and "hair-restoration programs," which are in general showing an upward trend. They are the source of such problems as cancellations midway through the service or course and coercive solicitations.

8. Growth in allergy-related damage

On the rise is damage related to allergies. The year 2003 saw consultations related to cosmetics, which are the source of many complaints and inquiries every year, along with consultations related to health foods, accessories, and lingerie.

9. New food safety administration

Since the outbreak of bovine spongiform encephalopathy (BSE), incidents threatening food safety seemed to happen one after another. The year 2002 saw rapid growth in the number of

consultations about food. The year 2003 saw the Food Safety Basic Act become established in July. It was introduced to ensure that comprehensive action was taken in the interests of food safety. In the same month, a Food Safety Committee was established in the Cabinet Office.

10. The Consumer Contract Law

The Consumer Contract Law came into effect in April 2001, and more than two and a half years have passed since then. Consumer centers use the Consumer Contract Law actively when conducting consultations.

Activities of the NCAC

Product Testing

● Tire safety - The correct way of using tires

The tires of a passenger car are the only part of the car that come into contact with the road surface, so they play an extremely important role in automobile and road safety. Consultations stored in the PIO-NET indicate many cases related to blowouts and punctures that occurred while driving, and which were attributed to deficient air pressure, external damage, and other tire defects. The NCAC then conducted a test centering on the effects of faulty air-pressure adjustment of passenger tires and other defects on the performance and safety of the passenger cars. Here are the results:

- 1) A decline in the air pressure of the tires increases the risk of safety problems occurring and mileage declines.

Insufficient air pressure deforms the tires during travel, thus increasing the load on the tires. As a result, the tires have a reduced service life and there is a loss in fuel economy. Another possible risk is that of the insufficient tire traction, resulting in hydroplaning (a phenomenon where driving fast on a wet road causes the tires to slide across the water surface, resulting in the loss of traction with the ground, leading to a loss of control).

- 2) Daily checks of air pressure are important.

Air naturally comes out of the tires. Deficient air pressure is difficult to detect by just looking at or touching the tires. Regular checking of the air pressure makes it possible to detect punctures early and prevent blowouts. Another important aspect of the air pressure is that there should be no major difference between the right and left wheels.

- 3) Contact with a curb, large stone or something similar can cause major damage to a tire.

When rubbing against or going over a curb, a tire may suffer damage. Driving with such damage unrepaired will often lead to more damage to the tire. A stone caught in the tread of a tire, if left there, may damage the tire due to friction with the road surface during motion. Care should therefore be taken.

The NCAC then provided consumers with the test findings described above and requested related businesses to give clearer indications of the dates the tires were manufactured and to provide the tires with a warning function that indicated when the air pressure was low.



Surveys and Studies

● Consultations about TV shopping

Because of the nature of TV as a medium, TV shopping gives displays of information only on an instantaneous basis, so that customers find it hard to record the information when it appears on screen. On the other hand, it is considered to be more persuasive than other media. In consequence, if broadcast information is insufficient or inaccurate, it becomes more likely that consumers are misled about the details of the products, terms of trading, and other matters. As a consequence, this can lead to damage to the consumer.

On September 24, 2003, the Fair Trade Commission issued a "Report on a Fact-finding Survey of Displays of TV Shopping Programs" and organized its ideas in accordance with the Law for Preventing Unjustifiable Lagniappes and Misleading Representation relation to the display of TV shopping by means of monitor surveys. In response, the NCAC analyzed consultation information stored in the PIO-NET and identified the problems with TV shopping as revealed by consumer grievances.

Complaints voiced at consultations included "The product didn't demonstrate the performance as shown in the advertisement," "it's not as effective as the supposed users stated in the advertisement," "I believed what the famous person said in his recommendations but I didn't get what I had expected," "the information about the product patents misled me," "I believed the recommendations about the product but I didn't get what I had expected," "the price of the set as a whole is almost the same as the normal market price," "the ads that say it is a limited version are untrue," and other problems related to labeling, along with "the supplier refused to receive the return of the product, saying that I had already used it."

Consultations revealed a problem that the consumers did not get the effects or performance of the product they had expected when watching the ads. What is more, even if a supplier says it is ready to accept the return of the product, it may be that it is ready to receive only the return of unused products. The following dilemma was then found: This provision cannot be applied to products whose effects or performance cannot be determined unless they are actually used. The NCAC then identified those instances and provided the information to related administrative agencies and TV broadcasters.

● **Quick growth of consultations about businesses involved in margin trading in foreign currencies.**

- Care must be taken by general consumers insufficiently informed or experienced in investment

Margin trading in foreign currencies began to be handled when the Foreign Exchange and Foreign Trade Control Law was revised in April 1998. This business is spotlighted as one method of managing assets based on foreign currency, mainly by individual investors. However, while this kind of business is expected to be highly profitable, it will cause major losses if the market does not turn out to be what the investor expected. Consumer centers nationwide are facing rapid growth in the number of consultations related to margin trading in foreign currency. The NCAC is therefore warning consumers not to become involved in margin trading in foreign currency.

The NCAC analyzed the consultation information that it received in relation to margin trading in foreign currency, and obtained the following findings:

- The center received about 400 complaints and

inquiries from April through September 2003. This number is double that for the same period in 2002.

- Of the contracting parties, more than half are aged 60 or over. Contracting parties in their 80s and 90s are also not uncommon.
- The contract amounts average as much as 5 million yen.

The analysis revealed problems regarding the methods adopted to make sales, such as "persistent solicitation on the phone to elderly citizens and other people" and "failure to give adequate briefing on the mechanism and risks of the transaction." An analysis of the consultations also indicated that some elderly citizens living on pensions or something similar lost most of their principal, resulting in many problems adversely affecting their investment portfolios, which were designed to support them in their old age.

The NCAC gave consumers advice about the following:

- Be on guard against problems with operators engaged in unclear transactions. Those problems stand out these days.
- Decline firmly at the time a phone call is received or when visited for solicitation.
- General consumers should not engage in any margin trading in foreign currency.

Margin trading in foreign currency is highly risky. Therefore, general consumers who do not have surplus funds, who are not well informed of trends in economic matters, finance, or international matters, who cannot carry the risks of investment, or who cannot determine whether a specific business operator is good or not should refrain from participating in margin trading in foreign currency.

● **Be on guard against sales persons offering investment opportunities, claiming to provide high returns!**

Perhaps reflecting the age of low interest rates, growing numbers of operators are offering investment opportunities, claiming that the investor will receive high returns on their contribution. Consultations are growing in number in this area as well.

The NCAC provided information about typical cases received in recent years, their mechanisms, along with their details by sex of contracting party, by age, by contract amount, and by amount already paid.

An analysis of the consultation information stored

in the PIO-NET and as viewed by fiscal year, indicated rapid growth to 405 in fiscal 2000, and an eight-fold rise to 3,118 in fiscal 2001. Fiscal 2001 saw an increase in the number of consultations due to the flow on effects when three related companies were spotlighted for malpractice in the public media as well as similar incidents. After that, the numbers of consultations declined, to 851 in fiscal 2002 and to 75 in fiscal 2003.

A close look at the mechanisms of the transactions as revealed by an examination of the details of the consultations, indicates that consumers established their contracts when they heard that they would gain a profit higher than the invested amount if they registered with the distributor of the product or invested in the business. They were given an undertaking that they would receive periodic dividends according to the amount they invested. Some contracts involve product purchases. Many of them involve chain sales, so that a commission as a fee for introduction is paid every time the consumer secures a new member.

The NCAC gave the following advice, based on the present survey:

- ⊙ Do not listen to solicitors promising high dividends! Do not engage in any discussion with them!

At the moment, it is not only ordinary interest rates on savings that are low. Even risky financial products give low interest rates. Consumers with good common sense know that high dividends are impossible.

- ⊙ Once invested, the money will seldom be returned.

Even if you obtain one or two dividends, this is merely a clever subterfuge designed to give the subscriber a false sense of confidence and to delay detection of the fraudulent nature of the investment. Do not under any circumstances trust the dealer simply because you have received one or two dividends and feel the desire to make additional investments.

● **Serious problems with elderly citizens**

* **People in their 70s who are targeted**

The percentage of complaints and inquiries from elderly citizens aged 70 and up is showing an upward trend. A lower percentage of people in this age group are employed than people aged less than 70, and a higher percentage of them are insecure about their health.

Comparison of the consultations with elderly citizens aged 70 and over as stored in the

PIO-NET with people in other age groups, indicated the following:

- 1) Many consultations are related to health and housing.
- 2) Many consultations are related to visits to households, hypnotic businesses, inspection-related businesses, or similar schemes.
- 3) Some cases involve coercive sales techniques and subterfuges designed to mislead elderly persons who may be senile or otherwise mentally incapacitated.

Based on such circumstances, the NCAC analyzed and surveyed typical cases received from elderly citizens aged 70 and up.

An analysis by type of product and service indicates a significant number of consultations about health products, housing work, and related matters. An analysis by sales method or the various subterfuges employed indicates more cases of visits to homes, SF businesses (hypnotic business), inspection-related businesses, and related techniques than in the case of people aged less than 70. What is more, a high percentage of such cases are brought not by the elderly citizens themselves but by their family members, caregivers, or someone with a similar relationship to the elderly person. An analysis of the attributes indicates a high percentage of unemployed persons or persons engaged in household matters.

Sales techniques include taking advantage of their insecurity about health, selling by claiming to be able to cure their illnesses, aggravating their anxiety about the houses they live in or the appliances and equipment they use, and sales techniques that take advantage of their financial insecurity about financial security in their old age.

In the case of people living on their own, contracts are established between the dealer and the elderly citizen alone, so that the realities of the situation cannot be monitored by his or her family members or caregivers.

Some dealers spend long hours badgering their targets, thus tiring the consumers and forcing them to establish contracts, making them withdraw money from their pension programs or savings accounts to establish contracts by installment payments, and making one senile elderly person after another become a parties to a contract.

The NCAC based its findings on the present survey and gave the following advice:

- ◎ Some dealers are smooth talkers and forceful salespeople. If you detect anything suspicious, decline firmly.
- ◎ If you feel insecure, consult a family member or someone close whom you can trust before establishing a contract.
- ◎ Do not establish a contract without checking its details.
- ◎ Understand that elderly citizens are vulnerable to the tactics employed by a variety of cunning dealers. People with some form of relationship with the elderly should maintain a watchful eye and ask those elderly citizens sometimes if they are in trouble.
- ◎ It can also be effective for some adults to resort to legal guardianship.

Visitors from Foreign Countries

* 27 members of Consumer Group Liaison Council of Korea (December 9, 2003)