

## ◇Trends in Consumer Issues

### *Japanese government initiatives to protect consumers from across-border fraudulent and deceptive commercial practice - Part II -*

In our previous issue (Vol. 16 No.1), we reported Japan's measures in support of the "OECD's Recommendations of the Council Concerning Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders." In this issue, we summarize the policy measures that resulted from discussions among the ministries and agencies headed by the Cabinet Office.

#### ●Scope of the "cross-border consumer problems"

The improvement of consumer protection and commercial transactions between merchants and consumers has become matters for our investigation. In addition, administrative law crackdowns on fraudulent and deceptive commercial practices feared to cause damages to consumers as well as on criminal offenses such as fraud charges will be reviewed. Cross-border consumer problems may be classified into (1) those caused by Japan based foreign traders who operate similar schemes at home and abroad and (2) transactions conducted through direct mail and on the Internet. Because both problems require effective countermeasures in collaboration with related institutions overseas, they are included in the matters to be investigated. Also included in our action assignment is spam email, which is the medium of cross-border consumer problems. Spam is both a consumer problem and a public nuisance.

#### ●Matters for discussion

- (1) Prevention of fraudulent and deceptive commercial practices involving consumers, development of regulatory laws for law-enforcement, effective monitoring, and crackdowns
- (2) Mechanisms to facilitate relief for victims
- (3) Approaches to education and information service for consumers that prevent consumer problems
- (4) Ways of assessing the actual situation and

sharing information to address consumer problems speedily and adequately

#### ● Concrete programs

- (1) The Cabinet Office will get a true picture of consumer problems through NCAC and its local consumer centers.
- (2) The Ministry of Economy, Trade and Industry and the Japan Fair Trade Commission will crack down and maintain constant surveillance on violations of the truth-in-advertising laws and specific commercial transaction law to ensure that relevant laws are well understood by traders.
- (3) The Ministry of Public Management, Home Affairs, Posts and Telecommunications and the Ministry of Economy, Trade and Industry will strengthen crackdowns on spam and the countermeasures in view of trends in the international community.
- (4) The National Police Agency will implement strict crackdowns on criminal violations and improve the investigative structure for this purpose.
- (5) Concerned parties will coordinate and share the responsibilities of providing consumers with information.

#### ● Cooperation with overseas institutions concerned

- (1) To promote information sharing and exchange with overseas institutions and carry out crackdowns
- (2) To push forward the international coordination of ADR and review ways to improve consumer relief within the OECD's framework
- (3) To enlighten consumers by the collection of Japanese consumers' complaints through the newly created Website (eConsumer.gov) in Japanese and share information with the overseas institutions concerned

#### ●Improvement of domestic network systems

- (1) To promote information sharing and discuss institutional challenges by creating the "international consumer problem network" composed of the ministries and agencies involved
- (2) The Cabinet Office will play a central role

as the coordinating liaison with the network and OECD

In the future, our programs for cross-border consumer problems will be forcefully pushed ahead with the "international consumer problem network" made up of the ministries and agencies at the core of our efforts. As this area has many unknown elements, close cooperation between related institutions is indispensable.

## ◇Activities of the NCAC

### —Product Testing—

#### *Safety of baby strollers*

The baby stroller is a basic item for leaving home with a baby. The PIO-NET run by NCAC receives complaints and inquiries about the instability and durability of strollers. Therefore, NCAC has conducted testing on the safety, stability, durability and usability of baby strollers and learned the following:

- Many strollers feature 3-point harnesses, which secure the crotch and waist while ensuring free movement of the upper body. We found the 5-point harness, which secures baby's upper body with crotch, waist, and shoulder straps is more effective in preventing the baby from falling.
  - Some strollers in motion have spaces between the push handle and the main frame or when the front bar is detached. Such spaces may cause a baby's hands and fingers to be caught in them.
  - When a train or bus comes to a sudden stop, there is a danger of the strollers sliding or turning over.
  - When strollers were tested for a 50-km continuous run on roads on different levels, some baby stroller models had distortions in the mounting angles of the wheels.
- With these results from the study, NCAC provided the following advice to consumers:
- Taking into consideration babies' ages and the usability of strollers, we recommend a stroller with a 5-point harness because it is more effective in preventing falls.
  - As some models have spaces when using the handle bar or front bar, adult stroller pushers should monitor babies' hands and fingers to make certain they don't get caught in the spaces.
  - When riding with a stroller in a train or bus that comes to a sudden stop, the stroller may unexpectedly turn over even if the wheels are locked with stoppers. Strollers must be held firmly on trains and buses.
  - The folded up size, weight, structure, and type of usage vary from brand to brand, so wise consumers need to make careful choices



when they purchase a baby stroller.

NCAC has also made the following requests to the baby stroller industry:

- Ensure that a baby's hands and fingers are not caught in the spaces.
- Augment merchandise lines so that consumers can select strollers effective in preventing falls.
- Manufacture practical strollers that consider actual usage.

#### *The type of cooking oil detergents that goes down the kitchen drain from the perspective of environmental friendliness*

Manufacturers of cooking oil detergents usually claim that the detergent "runs down the drain after use" or is "environmentally friendly." These detergents go down the kitchen drain after they clean cooking oil from dishes. Such claims give the impression that it is okay to drain the cooking oil detergent after disposal of the cooking oil. NCAC ran a test on the effects of wastewater on the environment after the oil had been drained. NCAC's findings were:

- The amount of oil in treated wastewater showed no change after its disposal.
- The water mixed with oil as instructed on the labels began soon after separation.
- If further diluted with water, the cooking oil in the treated wastewater was separated.
- Regarding water contamination by organic matter, no reduction in environmental pollution was observed.
- If 500 ml cooking oil was processed with detergents and drained, a considerable amount of water to restore water quality environment was required.
- All tested detergents had labeling that referred to the environment. Some labels gave the impression that oil could be drained as was.

Based on these findings, NCAC gave the following advice to consumers:

- Do not be deceived by the appearance of treated water after cleansing.
- Cooking oil should be used up.
- When disposing cooking oil, do not drain it. Dispose of it as if it were garbage.

In addition, NCAC requested that the cooking oil detergent industry make the following changes:

- Revise statements that may mislead the consumer into believing the product is environmentally friendly.
- Eliminate questionable statements in view of the household goods labeling law.

NCAC also requested that administrative agencies provide the following:

- Guidance on the "diffusion of knowledge on water pollution for the people" (water pollution control law)
- Guidance on descriptive labeling in accordance with the household goods labeling law

As some of the expressions used in the cooking

oil detergents were found to be misleading, test results were reported to the Japan Fair Trade Commission.

***Melilot-containing "health foods"  
Checking out herb-containing foods  
touting potency for swelling and diet***

Melilot is sold as health food touting potency for swelling and diet. It belongs to the legume family, but is used as a drug in Europe and Japan. NCAC investigated melilot-containing health foods, comparing their active ingredients and descriptive labeling with those of drugs. Following are the results of our testing:

- Some of the health foods tested had the active ingredient (coumarin) in the recommended daily value that exceeds those of drugs (about 2-fold to 5-fold).
- As the contents of the active ingredient (coumarin) vary widely among brands, the descriptions of melilot extract contents did not serve as a standard for choice of quality.
- The concentration of the active ingredient (coumarin) differs even among individual products of the same brand.
- Some description on packages or advertisements could be construed as having either preventive or curative effects.
- Some products had descriptions used for nutrition function foods and may be misleading to consumers.

Based on the above results, NCAC gave the following advice to consumers:

- Be careful about excessive intake.
- When expecting the effects of the active ingredient (coumarin), check its contents.

NCAC also made the following requests to the health food industry:

- Ensure the voluntary standards and quality controls on the quality of ingredients and contents.
- Describe the recommended daily value of the active ingredient (coumarin) on the package.
- Include descriptions that call consumers' attention to excessive intake.
- Reduce descriptions that could mislead consumers.

NCAC also made the following requests to the administrative agencies:

- Safety assessment of plant-based extract concentrates and appropriate implementation of the food sanitation law
- Realignment of the division of drugs and food (health foods) that use herbs
- Guide and lead health-food manufacturers to eliminate misleading descriptions
- Improve the labeling of nutrition functional foods

**—Surveys and Studies—**

***Be aware of problems  
involving contract-canceling surrogate***

Recently, an increasing number of incidents involving "contract-canceling surrogate businesses using private information" have been reported. These dishonest surrogates aim at consumers who have signed up for "qualification courses," "promising to cancel their unwanted contracts on their behalf." In fact, consumers are enticed into signing new contracts or are charged for cancellation fees. This is a secondary damage to consumers in which the surrogates get consumers' attention by stressing the leaking of private information from consumers' old contracts and pressuring them into a new contract.

NCAC reviewed the actual situation and issues of "problems involving contract-canceling surrogate businesses using private information." NCAC provided consumers with information that would prevent future contract problems from occurring.

The number of problems involving contract-canceling surrogate businesses using private information reported to PIO-NET has increased since fiscal 2000. The number of cases remains high. Nearly half of the contract parties are in their 30s; those in their 20s to 40s account for 80 percent of the total number of cases. Males account for 78 percent of the contract parties, of which 90% are salary men. By sales method, "telemarketing" makes up about 90 percent of the total counseling cases.

The major points of the problems involving contract-canceling surrogate businesses using private information are as follows:

- Telemarketing operators cleverly exploit the characteristics of telephone sales in soliciting customers.
- When soliciting new business, operators get consumers' attention by putting private information such as consumers' history of contracts to inappropriate ends. Operators abuse private information as the first step for getting a contract.
- Telemarketers cash in on consumers' subconscious awareness that "they want to cancel the old contracts" or their fading memories of contract details in the past.
- Telemarketers falsely represent themselves as public institutions.

NCAC, therefore, provided the following advice to the consumers:

- Firmly refuse insistent telemarketing.
- Take what marketers say with a grain of salt.
  - When in doubt, avoid giving private information.
- Remember that public institutions never make a sales pitch.
- When problems arise, consult with NCAC's local consumer centers.

***Surveillance study on money management and the protection of rights of the senile elderly and people with mental disabilities living in group homes or institutions***

When the senile elderly and people with mental disabilities in group homes or institutions experience consumer problems, they may find it difficult to speak out. Consequently, NCAC conducted studies in order to prevent monetary problems of the senile elderly and people with mental disabilities living in group homes or institutions. The aim was to find ways to protect the rights of the senile elderly and people with mental disabilities.

A summary of the studies is as follows:

- In October 2003, NCAC investigated money management at 5,000 institutions. The institutions were special elderly nursing homes, institutions for people with mental disabilities, and group homes for the senile elderly group and for people with mental disabilities. NCAC found the following:
  - More than 90 percent of the institutions and group homes keep residents' ordinary deposit passbooks.
  - More institutions for people with mental disabilities keep residents' time deposit certificates than the special elderly nursing homes.
  - Reasons for keeping residents' saving passbooks:
    - Family request
    - To prevent harm by dishonest merchants
    - 75 percent of the institutions have money management contracts with the majority of residents, while about half of the senile elderly group homes do not have contracts.
    - Whether miscellaneous charges are collected or not depends on the institutions.
    - About 75 percent of institutions and about 60 percent of group homes have money management rules for resident funds entrusted to the facility and explain rules to residents before they are institutionalized.
    - At about half the institutions, residents' seals are kept separately from the passbooks by an official other than those in charge of the money entrusted, while less than half of the group homes have the same system.
    - The number of cases where the passbooks are kept by the family associations of the residents is slightly more in the institutions for people with mental disabilities than those for the senile elderly.
    - About 60 percent of the institutions and 20-30 percent of the group homes receive assets from residents, their families, or residents' family association.
    - Less than 30 percent of the institutions for people with mental disabilities keep residents' passbooks to prevent residents' property from being abused by their families.
- NCAC established an investigative committee of lawyers, welfare experts, and parties concerned with the institutions for the senile elderly and people with mental disabilities. The committee compiled proposals for the protection of resident rights related to the management of

their financial assets.

### *34th Survey of Trends of People's Livelihood*

NCAC conducted a Survey of Trends of People's Livelihood. The study was aimed at women living in large cities with responsibilities for managing family life. NCAC discovered the following:

- Time-series themes:
    - Complaints about service and merchandise and the harm they caused declined from the previous survey.
    - The number one complaint about products and services (multiple answers) was about "foodstuff."
    - The number of women who filed complaints with shops increased over the previous survey.
    - Recognition of the cooling-off system, the product liability law, and the consumer contract law showed a slight increase over the previous survey.
  - Solicitation by door-to-door sales and telemarketing
    - About 90 percent of the women surveyed have experienced each of the sales methods.
    - Women who have more than one door-to-door sales call per week are 10 percent and more than 30 percent of the women receive more than one telemarketing calls per week.
    - 60 to 70 percent of the respondents admitted having been annoyed or uncomfortable.
      - Door-to-door sales: "insistent solicitation," "night calls," "long sales pitch," etc.
      - Telemarketing: "insistent solicitation," "abuse of personal information," "solicitation at meal time, night and early morning," etc.
    - Merchandise and service with which the women were annoyed or uncomfortable:
      - Door-to-door sales: "newspapers," "housing renovation," "water purifiers," etc.
      - Telemarketing: "condominiums," "esthetic service," "learning materials," etc.
    - Most women surveyed say they "don't want them to come back (or telephone) again," "they want them to stop calling them" or "they want to stop soliciting when refused."
  - Solicitation based on problematic sales practices
    - About 20 percent of the women had experienced solicitation and about 60 percent were annoyed or uncomfortable.
    - High on the list of problematic sales practices were "multi-level marketing," "illegal money brokers" and "hypnotism sales."
    - About 60 percent of the women took some action after their troublesome experiences. The primary actions taken were that the women "spoke with family members," "reported the incidents to a koban or the police," or "consulted with consumer centers."
- High on the list of measures and programs against

problematic solicitations are (1) "announcing the names of the problematic businesses at once," (2) "stiffening the penalties for trouble-making business operators" and (3) "making counseling desks widely know and promoting the prevention of consumer problems when they occur, providing early solutions."