

Trends in Consumer Issues

The Consumer Protection Fundamental Act was revised

The Consumer Protection Fundamental Act was established in 1968 and has been functioning as the fundamental framework for Japan's consumer policy. However, as 36 years have elapsed since its establishment, the social and economic environment has changed significantly. In order to create a consumer environment that allows the public to live in safety and security, it has been decided to amend the law to suit the contemporary economic situation in order to improve and reinforce consumer policy. The important points in the proposed amendment of the Consumer Protection Fundamental Act are as follows:

●Basic philosophy(Article 2)

Provisions are set forth for "Respect of consumer's rights" and "Support for the independence of consumers".

•The following "Consumer's rights" are specified for the first time:

- (1)"Right to have safety secured"
- (2)"Right to be given appropriate opportunities to make selections"
- (3)"Right to know essential information"
- (4)"Right to receive consumer education"
- (5)"Right to have views incorporated into consumer policy"
- (6)"Right to have damages remedied"

•Support for the independence of consumers:

Formerly, consumers have received protection, but it is now specified that by respecting their rights, consumers will be regarded as "players" and supported to help them acquire independence. However, this does not mean that they will become responsible for everything, and such necessary provisions as establishment of a backup system to ensure remedies for damages will be retained from the former legislation.

•Obligations of the national and regional/municipal governments(Articles 3 & 4)

•These should promote their consumer policy in line with the above-mentioned basic philosophy

●Obligations of business owners(Article 5)

Business owners should:

- (1)secure the safety of consumers and fairness in transactions;

- (2)provide consumers with information;
- (3)give due consideration to compliance;
- (4)settle complaints appropriately;
- (5)cooperate with national and regional/municipal governments in furthering consumer policy;
- (6)give due consideration to the protection of the environment; and
- (7)formulate voluntary codes of conduct and observe them

●Roles of business owner organizations and consumer organizations(Articles 6 & 8)

•Role of business owner organizations

- (1)To improve the system used to settle complaints
- (2)To give support to the formulation of voluntary codes of conduct

•Role of consumer organizations

It has been determined that the positioning of consumer organizations needs to be decided as part of the deliberations on the consumer organization lawsuit system, and the following have been specified in law for the first time: Consumer organizations should:

- (1)practice collection and provision of information and representation of own views with regard to consumer affairs;
- (2)conduct consumer awareness and education programs; and
- (3)carry out activities to prevent and remedy damages caused to consumers, etc.

●Consumers' endeavors provisions(Article 7)

•To acquire necessary knowledge and collect adequate information

•To give due consideration to the protection of the environment and intellectual property rights, etc.

●Formulation of the Basic Plan for Consumer Affairs and Consumer Policy Council

(Articles 9 & 27)

•The national government should set up the Basic Plan for Consumer Affairs to promote the consumer policy:

The Basic Plan for Consumer Affairs is formulated at meetings of the Consumer Policy Council.

●Optimization of commercial contracts(Article 12)

•The national government should take measures to optimize commercial contracts.

●Furthering of consumer education(Article 17)

•Regional and municipal governments should take measures suited to local situations based on the measures proposed by the national government.

●Settlement of consumer complaints (Article 19)

The regional and municipal governments should play a positive role as an intermediary in the settlement of complaints. Thus far, the rule has been interpreted to mean that the municipal governments are to negotiate with business owners and the regional governments are to assist the municipal governments. This has been changed to the principle that both levels of government should endeavor to settle complaints in general without putting on either the obligation to take the initial action. However, regional governments should endeavor to handle comparatively highly-advanced/specialistic or geographically extensive complaints while flexibly sharing roles with municipal governments depending on the local situation.

- Roles of the national and regional/municipal governments in settling disputes (Article 19, Subparagraph 3)

Measures should be taken so that disputes will be settled based on professional knowledge.

This has been specified with the aim of improving the status quo as consumer policy has hitherto hardly extended beyond the settlement of complaints but should now also encompass the settlement of disputes.

- Role of the National Consumer Affairs Center of Japan (Article 25)

The NCAC should play a proactive role as core organization in information collection, mediation in the settlement of complaints, product testing, surveys & studies, etc., in cooperation with related organizations.

With the above-mentioned amendments having been made, the "Consumer Protection Fundamental Act" was renamed the "Consumer Affairs Fundamental Act" and was issued and enforced on June 2, 2004. It is not the case that, with the enforcement of the Consumer Affairs Fundamental Law, we can immediately demand something concrete, but it is certain that an important law, which will become the foundation for directing future consumer policy, has been established.

Activities of the NCAC

—Product Testing—

Practical usability of washing/drying machines

The demand for washing/drying machines, which automatically wash and dry clothes once switched on, is increasing because of the convenience they provide to consumers, but on the other hand, the number of consumer consultations about them is also increasing. Viewing the number of consultations registered with PIO-NET (Practical Information Online-NETwork), it is seen that while there were 8 consultations in fiscal 1999, the number leaped to 130 in fiscal 2003. Under the circumstances, we have investigated the practical usability including the performance and safety of four brands of washing/drying machines, and obtained the results as follows:

- (1) In general, the operation times are rather long, and one brand took nearly 6 hours to complete the full cycle of operation.
- (2) The average cost of power and water for operation was about ¥3,600/month, which is fairly expensive.
- (3) About 60% of the washed and dried clothes still retained moisture and they were not in a suitable condition to be put on immediately.
- (4) Almost all clothes became considerably creased and could not be put on as they were.
- (5) The extent of cleaning was generally satisfactory.
- (6) There were many other problems in using them, such as the machine stops halfway because of some error, will not run with a small load of clothes, and when the drying operation is suspended, it takes long time before the lid unlocks.

In view of the above-mentioned results, we have released the following advice for consumers:

- (1) Consumers should know that there are differences in the capacity to wash and dry clothes depending on the model of the machine.
- (2) It is recommended to use the drying function only after fully considering the time and cost required.
- (3) Consumers should be aware of the fact that clothes with oily stains will not be dried satisfactorily.

Also, we have made the following requests to industry and government bodies:

- Request to industry
 - (1) To improve the drying capacity, drying performance and indication of remaining time
 - (2) To improve the mechanism so that the machine does not stop halfway due to errors
 - (3) To reduce the time required for each cycle of operation
 - (4) To rectify the indicators that may mislead, or lead to a false assumption on the part of consumers
 - (5) To improve the mechanism so that lint does not escape
 - (6) To improve the locking mechanism for the lid of the tub
- Request to government bodies

We requested government bodies to establish standards for washing/drying machines.

Quality and hygiene of tofu (bean curd)

Soybean, which is the raw material for *tofu* (bean curd), is now attracting attention as a nutritional source for calcium, protein, isoflavones and so on. We have investigated the difference in the quantities of these nutritive elements depending on the type and other factors affecting *tofu*, characteristics in accordance with the differences in coagulators, hygienic aspects in relation to the recommended use-by date (or consume-by date) and other factors and obtained the following results:

- (1) *Momen-tofu* (literally, cotton-*tofu*; ordinary bean curd) contains comparatively high levels of proteins and lipids and is harder than other types of *tofu*.
- (2) *Tofu* can be an important source of isoflavones.
- (3) There were some *tofus* where the coagulator was

different from that indicated on the label
(4) *Tofu* indicated as using "*nigari*" (bittern or brine) contains more magnesium, and that indicated as using calcium sulfate contains more calcium.

(5) In many brands of *tofu* without the indication of "domestic" or "JAS-complying organic" soy beans, recombinant DNA from genetically modified soy beans was found, but it was verified that all such *tofu* use beans controlled under Identity Preserved Handling, thus presenting no legal problems.

(6) About a half of the sample brands were carrying some form of nutritional indication. Some of them indicated values that differed from the results obtained through analysis.

In view of the above-mentioned results, we have released the following advice for consumers:

(1) *Tofu* is a food containing abundant protein and isoflavones.

(2) *Tofu* should be stored in a refrigerator under careful temperature control. In particular, *tofu* indicating a recommended use-by date that comes shortly after purchasing should be eaten as early as possible.

(3) The indication "Does not use genetically modified soy beans" does not necessarily mean that no recombinant DNA from genetically modified beans will not be detected in it. However, almost no such DNA was detected in *tofu* indicated as using "domestic" or "JAS-complying organic" soy beans.

We made the following requests to industry and government bodies:

● Request to industry:

(1) To improve the management regarding hygiene and provide more hygienic products

(2) To indicate all coagulators used accurately, without any omission

(3) To provide precise nutritional information so that consumer may use it to measure nutritional intake

(4) To review the indications that focus on "*nigari*" (bittern/brine), "round soy beans", etc. (as sales point)

(5) To refrain from adding unnecessary indications

● Requests to government bodies

(1) To examine and review the current method of testing, which is unable to verify, from the products, the ratio of genetically modified soy beans mixed in with the raw material.

(2) To define the standards related to hygiene such as the number of bacteria present in *tofu*.

—Surveys and Studies—

Trends and problems related to commodity futures-transactions

The number of consumer consultations related to commodity futures-transactions exceeded 7,000 in fiscal 2002, marking fourfold increase over the level ten years before. The average contracted amount of money in the commodity futures-transactions exceeded 7 million yen, which indicates that the losses incurred by consumers are extremely high. Currently, a proposed amendment to the Commodity Exchange Act is now being deliberated by the Diet, and reinforcing the regulations to give

consumers better protection is being considered. In view of these circumstances, we have summarized the trends, problems and notices for consumers concerning consultations related to commodity futures-transactions as follows:

The number of consultations for commodity futures-transactions is increasing year by year, and in particular, the rate of increase in the number of incidents involving elderly persons is remarkable. Most of the contracting parties concerned were licensed commodity traders. With regard to the contents of consultations, there were complaints regarding the manner of solicitations, such as time-consuming and/or threatening solicitations, complaints regarding the manner of transactions such as selling or purchasing without notice and refusing to terminate transactions despite the consumer's request, and complaints regarding the violation of the suitability rule such as solicitation of and/or contracting with unsuitable persons.

The problems can be summarized as follows: the risks involved are not fully understood; there are problems regarding the methods of solicitation; and transactions are made with no regard for the wishes or intention of consumers. Law regulates the methods of solicitation and manner of making transactions, and there were many cases where the regulations were violated.

Since commodity futures-transactions are by their nature complicated and involve high risks, general consumers should not become involved in this type of transaction.

Accident caused by the explosion of a soft drink container with heeltap!!

34 instances of information on accidents related to the explosion of soft drink containers were reported to the Injury Information System maintained by NCAC during the period from fiscal 1998 to 2003. Of the 24 instances of accidents involving explosions reported in and after fiscal 2001, those caused by PET bottles were 9, all of which were accidents that occurred from bottles in which some unconsumed liquid remained.

Therefore, we conducted a series of analyses focusing on the information on accidents involving PET-bottled drinks, which have become more frequent recently, and tests to ascertain the extent of the dangers in the event such explosions occur, and obtained the following results:

● Results

▪ There were 19 cases of injuries in which some injury was caused by the explosion of a soft drink container.

▪ In terms of the seriousness of wounds, the most frequently-occurring cases (9) (47.4%) were those causing grazes, fractural injuries or contusions, four of which were caused by PET bottles, including a case of a serious wound requiring a treatment period of over 3 weeks.

▪ It was found that PET bottles can explode due to a rise in internal pressure if bacteria get into the contents, depending on the conditions under which the bottled was placed.

● Problems

▪ If unconsumed liquid remains in a PET bottle after once having been uncapped, to keep it with the cap re-tightened is by no means desirable

from the viewpoint of safety as well as hygiene because 1) the bottle could explode causing injury depending on the conditions, and 2) the drink remaining in the bottle may ferment or get stale as a result of the bacteria.

- The notices of caution found on the labels of PET-bottled soft drinks on the market do not seem appropriate in terms of fully informing consumers regarding the risk of possible explosive accidents.

Based on the above-mentioned results, we have made the following requests to the relevant industrial organization:

The notices of caution found on the labels of PET-bottled soft drinks on the market do not seem appropriate in terms of fully informing consumers regarding the risk of possible explosive accidents these PET bottles may cause. The notices of caution on the commodity labels should be further amended so that the cause and extent of risks of explosive accidents which could be caused by PET bottles will be more easily understood by consumers and further efforts should be made to make consumers aware of the risk in the PR and advertising activities also.

Current situation of mutual aid programs without legal basis, and related matters

Mutual aid programs can be categorized into those with a legal basis (so-called authorized mutual aid programs; hereinafter referred to as the "Authorized Mutual Aid") and those without a legal basis (so-called unauthorized mutual aid programs; hereinafter referred to as "Unauthorized Mutual Aid").

In recent years, Unauthorized Mutual Aid has been attracting attention due to its low premiums and ease of participation that fits the needs of consumers. However, it is generally understood that the Insurance Business Law does not apply to these unauthorized programs and there is no individual law to govern them. Compared with insurance and Authorized Mutual Aid, there seem to be a considerable number of consumers who feel uncertainty regarding its reliability; for example, whether or not the mutual aid money will be properly paid, and in case of bankruptcy, whether measures to protect the investments of participants will be taken, and so on.

Reflecting such circumstances, consultations related to Unauthorized Mutual Aid are being sought by consumers from NCAC and local consumer centers, though in a small number thus far. Most of such consultations are inquiries related to the reliability of the managing companies and the manner of solicitation, which resembles that employed in multilevel marketing.

At NCAC, we thought some measures should be contemplated before the problem becomes more prominent, and have summarized the existing problems, issues to be addressed hereafter, etc. as follows:

- Existing problems and issues to be addressed hereafter
- It is difficult to judge whether such programs violate the Insurance Business Law because there are no guidelines regarding the standards for "specific" and "nonspecific" as provided for in said law and also there are no past legal

precedents, even if those are intended to cover the general public.

- There are certain concerns from the viewpoint of the protection of participants because the disclosure and solicitor's training systems are not complete since these are beyond the scope of regulatory control.
- As an example of a problem that occurs before signing a contract, consumers are unable to obtain any further information on the management status beyond that which the company voluntarily provides because Unauthorized Mutual Aid does not have the obligation to disclose such information.
- As an example of a problem at the time of signing a contract, while insurance companies have a solicitors registration system, Unauthorized Mutual Aid companies do not have any such system. Therefore, persons not necessarily having full knowledge on the commodity, etc. will explain the commodity to consumers, which may possibly lead to consumers gaining a false impression regarding the commodity due to either inappropriate or insufficient explanation. In particular, where Unauthorized Mutual Aid commodities are sold by a solicitation method similar to that used in multilevel marketing, the problems sometimes parallel the types of concerns that are typically found in multilevel marketing (solicitations that exploit human relations in order to gain an unfair advantage which is apt to result in hard-sell solicitations, etc.) and such problems are often difficult to resolve.
- As an example of a problem that can occur at the time of bankruptcy, there is a concern that the participants are not protected because Unauthorized Mutual Aid has no liability reserve system.
- Because there are no restrictions controlling the establishment of Unauthorized Mutual Aid businesses, if the business owner intends to depart from the proper purpose and philosophy of a genuine mutual aid business, it can evolve as an Unauthorized Mutual Aid business, and therefore, it causes us anxiety from the viewpoint of consumer protection.
- Request to government bodies
- Since the criterion by which the terms "specific" and "nonspecific" as set forth in the Insurance Business Law is unclear, it must be clarified by means of ministerial guidelines, etc.
- It should be made obligatory for Unauthorized Mutual Aid businesses to implement disclosure and solicitor training systems.
- Appropriate measures to protect participants should be considered in order to achieve the original purpose of indemnifying the participants against the risk at the time of bankruptcy or similar.
- Advice to consumers
- It is recommended that consumers only sign a contract for an Unauthorized Mutual Aid program after they have investigated it themselves and gained a full understanding of how it differs from insurance or Authorized Mutual Aid programs (whether disclosure and commodity examination systems and liability reserve systems, etc. exist). It is also important to proceed very cautiously, which includes not signing a contract if there is any uncertainty or doubt regarding the program.

- In the event consumers are solicited in a manner similar to that used of multilevel marketing, they are very likely to become involved in problems that will grow to become so complicated that it will become difficult to resolve them, and therefore, they need to be especially careful.