



# NCAC NEWS

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## ◇ *Consumer Affairs Climate*

### *A decade after the enforcement of the Product Liability Law*

It has been a decade since the Product Liability Law was enforced on the 1st of July 1995. The Product Liability Law sets forth that a business owner must redress the damages suffered by a consumer when such a consumer successfully proves that he/she has suffered damages to their life, health and assets from the product defect. In recent years, products that are available to consumers have become more highly developed and complicated. We have therefore become more dependent on business owners to assure the safety of their products. Given the circumstances, the Product Liability Law was established to appropriately relieve consumers who have suffered from an accident which was caused by the product they purchased.

The trends in consumer counseling cases related to an accident caused by a product as well as in lawsuits that were filed on the basis of the Product Liability Law are described below:

#### ● *The trend in consumer counseling involving the Product Liability Law*

In the last decade up to the Fiscal 2004, the number of consumer counseling cases, which are registered in NCAC's PIO-NET (Practical living Information Online-NETwork) and are related to accidents caused by products, has grown approximately 1.9 times more compared to the period before.

In the Fiscal 2003, approximately 5,000 cases were reported stating that consequential damages arising from a product-related accident occurred. The largest number of consumer counseling cases concerning physical damages arising from product-related accidents involved 'health food.' The major damages involving health food were 'skin problems.' On the other hand, the largest number of consumer counseling cases regarding consequential damages to personal property was related to 'air-conditioning equipment'. The major problems of this issue were 'ignition' and 'flash-off.'

Local consumer centers throughout Japan provide consumer consultation regarding product-related accidents. Depending on the matter, however, they sometimes introduce consumers to PL Center (center for dispute settlement regarding Product Liability) of each specialized product division to which the product of concern belongs to. PL Centers are one of the outside-court dispute settlement measures. They act as consultation agencies aiming at providing a dispute settlement that is objective, fair and prompt. PL Centers, however, are considered to have the below mentioned problems;

- *Public recognition of PL Centers is low.*
- *PL Centers do not disclose the information obtained from individual cases, therefore, the information is almost impossible to be utilized to prevent and relieve similar cases.*

#### ● *The trend in lawsuits related to the Product Liability Law*

NCAC counts the number of lawsuits related to the Product Liability Law. It is confirmed that there were 68 cases of lawsuits before the 10th of June 2005.

This number does not seem to be large when taking into account that the number of consumer counseling cases concerning product-related accidents is 4,000 to 5,000 in a year. The number of settled cases by means of reaching mutual agreement, however, has increased when comparing the number to before the Product Liability Law was enacted.

The first successful lawsuit based on the Product Liability Law involved a consumer who suffered an injury to his throat immediately after drinking a certain juice product. The court handed down the judgment stating that the trader has the product liability since a foreign object mixed into the juice was the cause of the injury and the product was therefore defected.

Other lawsuits where a 'defect' was identified in compliance with the Product Liability Law include the following cases:

- The bamboo materials that were used to build a new building were verminated and the insects ate out the walls and floors of the building.
- In a primary school, a person was injured by the debris of a glass dish that was provided in the school meal.

Nevertheless, over the decade, only a few lawsuit cases were successful where a defect was identified in accordance with the Product Liability Law.

There are some issues with lawsuits based on the Product Liability Law as below:

- Consumers have quite a large number of disadvantages as they do not have the specialized knowledge on products.
- The amount of damages paid to consumers is small. This does not encourage business owners to feel pressure to assure the safety of their products.

Because of the enforcement of the Product Liability Law, companies have been trying to improve the quality and the safety of their products to a greater extent than before it was enforced. They have been providing warnings for consumers regarding misuse of their products with more positive attitudes. Consumers have also shown stronger interest in information regarding product recalls.

Therefore, it is safe to say that the awareness of both companies and consumers regarding the safety of products has been growing since the law was enforced.

In the coming years, it will be necessary to closely review challenges such as; utilizing the information gained by PL Centers, enhancing the activities of the inquiry counters and reducing the disadvantages experienced by consumers in lawsuits based on the Product Liability Law. As we are celebrating a decade of the law enforcement, which has reached a critical moment, more vigorous debates need to take place so as to reduce consumers' sufferings caused by product defects and to prevent product-related accidents.

## ◇ *Activities of the NCAC*

### —Product Testing—

#### *Product test results of insect deterrents*

Insect deterrent, which is essential in summer time, contains "deet" (a product name of "diethyltoluamide") as an insect repellent. Although deet in general is considered to have low toxicity, it is reported that deet still has a risk to health at rare intervals. On insect deterrent products sold in Japan, however, specific directions for use, amount of usage and the ceiling amount of usage are rarely displayed. This will cause unexpected damages to consumers. Given this, NCAC conducted the following tests on insect deterrent products:

- Tests of the amount of the insect repellent contained in a product
- Test of the amount of the insect repellent that attaches to the skin when a product is applied
- Questionnaire survey targeting consumers
- Survey targeting insect deterrent manufacturers

The outline of the findings is as below:

- The concentrations of deet significantly varied depending on each quasi-drug brand and some of these brands' products were found to be almost equivalent to medical products.
- Most of these quasi-drug brands did not display the concentrations of deet.
- Each product type had its own characteristics in regards to how the insect repellent attaches to the skin. The aerosol type was found to be inefficient when it came to the insect repellent's attachment to the skin and that the particles were smaller. This may cause a user to accidentally inhale the repellent.
- As a result of the monitor tests, the amount of usage was found to be varied depending on each user.

There were some cases where users may need to be more careful regarding the amount of usage (i. e. the attached

deet amount to the skin should not fall below what the manufacturer has assumed and users need to be careful if they use a product frequently and continuously).

- In the questionnaire survey for consumers, approximately 90% were found to have used an ‘insect deterrent’ product.
  - Approximately 60% of children were found to have used a product from under the age of 2.
  - Over 90% of children were found to have high usage rates of an insect deterrent product when they play outside.
  - Although product packages have a display stating “safe for babies, infants and children”, some responses obtained from the manufacturer survey recommended to “restrict the use of insect deterrent” with infants.
- Given the above mentioned test results, NCAC provide the following advice for consumers:
- Apply ‘insect deterrent’ for infants only when it is necessary.
  - As the aerosol type is inefficient in regards the insect repellent’s attachment to the skin and may cause a user to accidentally inhale the insect repellent particles, it is recommended to think out better ways to apply the product to children. For example, it is better to apply it to the palm of your hand first and then rub it onto children’s skin.
  - Compare each product’s characteristics and choose the one that is suitable for you so as to use it more safely.
  - When applying insect deterrent to an infant, avoid applying it to his/her hands and face.
  - It is also necessary to find better ways to reduce the use of insect deterrent such as wearing long sleeve shirts and long pants.
  - The amount of usage as well as the handling of insect deterrent must be paid close attention to as the concentrations of deet vary between each quasi -drug brand and some of these brands’ products were found to be almost equivalent to medical products.

#### —Surveys and Studies—

##### *Accidental swallowing by children*

NCAC collects accident information by making the best use of the “Injury Information System”. The collected information includes accidents where infants accidentally swallowed a non-food object, or a foreign object was stuck in an infant’s throat or trachea. These accidents may trigger intoxication, abnormality in the digestive system or suffocation and some may even be life-threatening. Besides these, serious medical attention may sometimes be required that can be a severe physical burden on an infant (i.e. gastric lavage or removal of foreign object using a viewing tube). Given the circumstances, NCAC analyzed the collected accident information and provided the analysis for the media, related ministries and agencies and also for industry organizations. The outline of the analysis is described below:

- General conditions of accidents:
  - For the information collected from April 2000 to the end of January 2005, there were 2,714 cases reported regarding children under the age of 10 accidentally swallowing a non-food object.
  - Children suffered from accidents mostly between the ages of 0 to 1. The largest number of accidents was caused by tobacco.
  - There were some extremely severe accidents reported.
- Relationship between children’s growth and accidents:
  - Children begin carrying objects which they can catch hold of in their mouths from 5 to 6 months-old.
  - Children begin recognizing the differences between food and non-food between the ages of 1.5 to 2 at the soonest.
  - The number of accidental swallowing cases rapidly increases after children reach 5 to 6 months-old.
  - As the breathing rate of children is faster than that of adults and their airways are open for a longer period than of adults, they are more exposed to the risk of an object in their mouth going down into their airways.
- In the event of an accident occurrence:
  - Swallowing of tobacco, medicines and chemical products may cause intoxication and a button battery may pierce the mucous membrane of the digestive system.
  - Post-accident treatment may involve a viewing tube or a general anesthesia that would be a severe physical burden on a child.
- Advice to prevent accidents:
  - Keep out of children’s reach non-food and potentially dangerous objects that they are likely to carry in their mouths.
  - Avoid ambiguous usage of food containers such as using them to store bleach in.
  - To prevent accidents, use; toys that meet the Safety Toys Standards and containers that infants cannot open easily.

- In the event of an infant accidentally swallowing a non-food object, it is important to recognize in which cases you should induce the child to vomit and in which cases you should not do so.
- It may be a matter of urgency depending on the object that a child has accidentally swallowed. In cases of urgency, go to hospital immediately and have the child examined.

### *Credit card problems occurring in one's immediate surroundings*

Credit cards (hereinafter 'cards') have become widely used. The total number of cards issued in Japan up to March 2005 reached 263.62 million. Besides the growing number of shops that accept card payment, one of the major reasons that have boosted the common use of cards is the familiarization of convenient pay-by-card measures such as online shopping.

On the other hand, the number of card-related consumer counseling cases has been increasing. More than 50,000 cases have been reported in the last five years. These cases include unauthorized use of cards or crimes committed through the use of cards such as skimming. This time, however, NCAC examined consumers' understanding of the card systems as well as the problems occurring in online shopping. The major findings are described below:

●Details of card-related consumer counseling:

- The ratio of consumer counseling regarding card contract cancellation reached approximately 25% which was the largest ratio in this survey.
- High ranking consumer counseling cases were related to unrecognized bills sent by a card company and problems occurring in online card payment.
- Other common consumer counseling cases included unauthorized use of cards and multiple debts.

●Major problems:

- Internet-orders may be insufficient in checking the identification when cards are used for shopping.
- Juvenciles can conduct large-sum consumer purchases without having their parents' permission.
- Even if a user has already cancelled his/her card, the card may still be used at shops where an online terminal is not installed.
- Unauthorized use of cards as a result of card and/or identity theft by means of 'phishing' has rapidly been increasing in recent years.
- In card application processes, inappropriate solicitations and inadequate explanations aiming at the elderly have become widespread.

●Advice for consumers:

- Ensure that you handle your card properly. Do not let other people including your family use your card.
- After canceling your card, discard it physically such as cutting it up with scissors.
- Do not leave your card, especially in the car that has a high risk of theft.
- Store all receipts and accounting statements to always verify your card usage status with the bills. Do not leave or discard your card in places that attract other peoples' attention so as to secure your card number from theft.
- For juveniles conducting consumer purchases on the internet, parents should properly supervise them by setting up credit card usage rules.
- Be aware of phone calls and emails inquiring about your card number, membership number or personal information. Contact the card company's information desk directly for a check if you feel suspicious.

### *Outline of the consumer counseling cases that took place a month after the establishment of the inquiry counter for personal information*

In Japan, the Personal Information Protection Law was enacted in April 2005 to protect 'personal information' including addresses and phone numbers.

Given this law enforcement, NCAC was initiated to handle consumer counseling concerning personal information from April 2005 on the basis of the "Basic Policies of Personal Information Protection" which was developed by the government. The status of consumer counseling received in April 2005 is described below:

●The number of personal information related consumer counseling cases:

- The total number of consumer counseling cases that took place from the 1st to 28th of April 2005 (20 days) was 196.
- The number of consumer counseling cases brought up by individuals was 123 (62.8%) and the number of inquires from business owners and organizations was 35 (17.9%).
- The number of consumer counseling cases brought up by local authorities' personal information related inquiry counters was 38 (19.4%).
- Among the overall consumer counseling cases, the number of complaints was 140 (71.4%) and inquiries was 56 (28.6%).

●Details of consumer counseling cases:

•The ‘medical industry’, ‘financial industry’ and ‘information and communications industry’ are all required to appropriately handle personal information in a stricter way compared to other industries. The number of consumer counseling cases related to these three industries was as below:

- (1) Medical industry: 11 cases (5.6%)
- (2) Financial industry: 37 cases (18.9%)
- (3) Information and communications industry: 29 cases (14.8%)

•Other consumer counseling cases included:

- (1) Consumer counseling cases regarding solicitation of learning materials and condominium apartments
- (2) Inquiries regarding the handling of personal information brought up by residents’ associations and class reunions

•Details of high ranking consumer counseling cases:

- (1) Use of personal information for non-general purposes
- (2) Distribution channels of personal information
- (3) Inappropriate acquisition of personal information
- (4) The supplying of personal information without permission
- (5) Suspension of the use of personal information

*A growing number of problems regarding ‘study-abroad agency services’*

According to PIO-NET, the number of consumer counseling cases regarding ‘study-abroad agency services’ has been increasing. These services are provided by agencies. On behalf of a person intending to go abroad for study or work, these agencies are responsible for the paperwork associated with ‘studying abroad’, ‘overseas internship’ and ‘working holiday’ programs (i. e. providing information concerning the country that a person intends to go for study, preparing the required documents, visa application, etc).

The major problem regarding these agencies is with the cancellation refund. In addition to this, there are some serious cases concerning inappropriate solicitations and unfaithful attitudes of agencies and also agencies becoming bankrupt while a person is traveling to the country where he/she intends to study or work. Through these consumer counseling cases, NCAC outlined the problem areas of these agencies as well as the advice for consumers as described below:

●Status of consumers who brought up the issues:

- In the sex ratio, approximately 80% of the total number of consumer counseling cases was female.
- In the age bracket, over 70% of the total number of consumer counseling cases consisted of people in their teens and twenties

●Details of consumer counseling cases:

- 90% of the total number of consumer counseling cases was related to problems involving contract details, contract cancellations and cancellation refunds.
- An upward trend was seen in consumers complaining about the quality of the provided services.

●Sales and purchase status:

- Approximately 70% consumers concluded their contract in an agency. Door-to-door sales and tele-marketing were found to be extremely rare.
- The average of the paid sum at the point when consumer counseling was sought was 640,000 yen with an overwhelming majority of cash payments.

●Problem areas based on these consumer counseling cases:

- With insufficient or false explanations, consumers were rushed to conclude a contract.
- Cases involving high cancellation sums were found.
- As these agencies are not travel agencies, compensation services (refund/continuing services) may not take place for consumers in the event of bankruptcy.

●Advice for consumers:

- Firstly, specify the services you wish to receive (i. e. the country for study, details of study, details of job, etc) and then find an appropriate agency.
- Compare several agencies in terms of their service qualities, fees and contract terms.
- Read the contract details (i. e. contract, clauses, agency’ s responsible areas) carefully before concluding the contract.
- Do not make haste to sign the contract. Stay on the safe side. There are many cases where ‘cooling-off’ is not applicable.
- Obtain information in advance from public institutions such as the Japan Student Services Organization.

As there is no comprehensive law existing to control these services, NCAC provided the above mentioned findings to the related ministries and agencies such as Cabinet Office, Ministry of Land, Infrastructure and Transport

and Ministry of Education, Culture, Sports, Science and Technology. The findings were also forwarded to the Japan Association of Travel Agents and the Japan Association for Working Holiday Makers that provide similar services. NCAC will pay close attention to this matter hereafter as well.

*Information collection and information supply by making an effective use of "E-mail for Consumer Problems"*

NCAC established an information collection system called "E-mail for Consumer Problems" on the 8th of April, 2002 so as to gain an understanding regarding consumer damages during the actual problem occurrence and to prevent such damages. This is a report type system. Consumers can send a report to NCAC regarding business practices that they think are dangerous or problematic in their immediate surroundings. Having received a report, NCAC sorts out the reported information and conducts an investigation if the reported subject is considered to be highly problematic.

On this occasion, NCAC outlined the number of emails received in the three years since the initiation of the system operation and also the major cases to which NCAC conducted the follow-up checks as described below:

- The number of emails received:
  - The number of emails received in the last three years:
    - Year 2002: 3,254
    - Year 2003: 4,794
    - Year 2004: 5,967
- Details of the received emails:
  - As it is the nature of this system to utilize the internet, the largest number of the obtained information was related to communication services.
  - The details of the problems were mainly related to 'contract and cancellation' and 'sales methods.'
  - Status of the informants:
    - (1) Sex : Over 70% was male.
    - (2) Age : Although people in their twenties, thirties and forties were the majority, a gradual upward trend was seen in people under the age of twenty and people in their fifties and above.
    - (3) Occupation : Although 'white-collar workers' accounted for 61-66% in the overall result, the percentage of 'students/pupils' has rapidly increased in the Fiscal 2004.
- Major cases to which the follow-up checks were made based on the received information:
  - (1) Hazard/safety
    - A baby car accident where an infant caught his/her fingers
    - A bottle that contained chestnuts stewed in soy sauce and sugar burst into pieces
    - Possibility of heat exhaustion caused by electric carpet
  - (2) Quality/malfunction of products
    - Horizontal streaks appeared on the liquid crystal display of a desktop computer
    - Ink malfunction found in a multifunctional printer
    - Audio skips occurred in a DVD recorder
  - (3) Communication services
    - Heavy-handed solicitation of direct coupling fixed-line telephone services
    - Lack of managerial responsibility with online game administrators
  - (4) Others
    - Troublesome sales activities that took place in bath house facilities
    - Problems caused by movers
    - Problems that occurred in package tours

The National Consumer Affairs Center of Japan is an independent administrative agency for consumer protection affiliated to the Cabinet Office. The main activities are consumer education, consumer consultation, research and product testing.

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