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◇ Consumer Affairs Climate

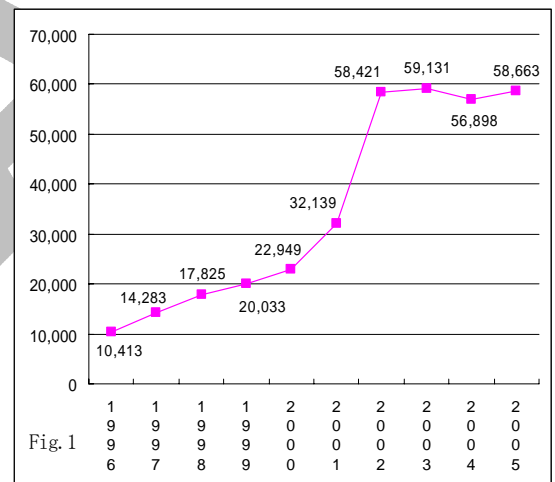
Dealing with the Problem of Heavy Debts

It is said that there are about 1.5 to 2 million people in Japan who are in heavy debt. According to the number of requests for consultations related to heavy debts (Figure 1) registered on PIO-NET (Practical living Information Online-NETwork) operated by NCAC, the number of requests for consultations reached nearly 60,000 in fiscal year 2002 and thereafter has shown no sign of decreasing.

With the problem of heavy debts placing a serious strain on the debtors and their families and causing negative events such as suicide and family breakdowns, efforts are being made to quickly find a solution.

In response to this situation, NCAC has conducted a fact-finding survey and discovered the following facts:

- The majority of the borrowers at 29.9% had a gross annual income of under 2 million yen (tax included) when they obtained their first loan. Furthermore, 75% of the borrowers had a gross annual income of under 4 million yen (tax included) and the rate of borrowers lessened as the annual income increased.
- It took less than one year for 20.4% of the borrowers before they began to encounter problems with repayment from the first time they took out a loan. For 43.6% of the borrowers it took between 1-4 years.
- The top three reasons for taking out loans were: “to repay loans”, “because of a cut in salary”, and “because of low salary”.
- The top three reasons for the borrowers choice in loan company were: “I happened to see an advertisement”, “because the company was well-known”, and “because it was easy to take out a loan”. Over 60% of those who responded that they “happened to see an advertisement” saw it in a “television commercial”.
- For the majority of the borrowers at 74.7%, the loan company that they chose was a “consumer loan firm”.
- 36.8% of the borrowers had a loan total of “over 5 million yen”.
- 61.7% of the borrowers were advised by the loan company to raise their debt limit, and 38.6% were recommended to borrow more than they needed.
- The top three negative effects that were created due to a debt-ridden life were: “the contemplation of suicide”, “illness due to stress”, “a breakdown of the family such as separation or divorce”.
- Over 90% of the borrowers responded that they “did not know” about the upper limit of the lending



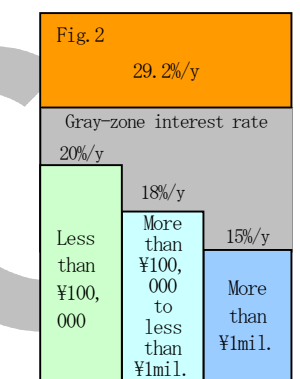
rates (annual interest 15%-20%) stipulated under the Interest Limitation Law.

- More than a half of the borrowers responded that they “did not seek advice” even when the repayment became difficult. The most prevalent reason was that they “believed that they would somehow manage (74.0%)”.

Based on the above-mentioned findings of the survey, and in consideration of the legal issues raised by the heavy debts and the impact on the family finances, the following proposals have been compiled by NCAC:

1. Prevention of excessive loans that are beyond the repayment capability of the borrower
2. Abolition of the “gray-zone interest rate*” and a unified cap interest rate in the Interest Limitation Law
3. Improved consumer education in relation to debt

*An interest rate zone that exceeds the cap interest rate stipulated in the Interest Limitation Law (annual interest rate ranging between 15%-20% depending on the loan amount) but is less than the cap interest rate stipulated in the Investment Law (annual interest rate of 29.2%) (Figure 2). Because the Interest Limitation Law has no punitive clause, the lender is not subject to criminal charges even if the cap interest rate is exceeded. Criminal charges against illegal interest rates are stipulated in the Investment Law and penalties are imposed for contracts with interest rates that exceed an annual interest rate of 29.2% or for the receipt of loan repayment of such contracts. Many money lenders are giving out loans with cap interest rates that are barely under that limit stipulated in the Investment Law.



As the implementation of the measures for tackling the problem of heavy debts from every direction gets underway, the fact-finding survey conducted by and the proposals made by NCAC had far-reaching effects and have become one of the driving forces for further promotion of the response in dealing with the escalating seriousness of the problem.

◇Activities of the NCAC

—Product Testing—

Cyclone-type Vacuum Cleaners

The cyclone-type vacuum cleaner (hereinafter called “cyclone vacuum cleaner”) is a new generation vacuum cleaner that entered the market several years ago and has been working its way up to becoming a leading product. One of the strong selling points of this product is that the “suction strength does not deteriorate” since the vibration shakes off the dust which gets attached to the filter.

However, the following types of complaints against this selling point for the cyclone vacuum cleaner have been registered on PIO-NET (Practical living Information Online-NETwork) :

- The suction strength deteriorates quite quickly and is not as strong as I had imagined it would be
- The filter easily gets clogged and obstructs the suction
- I find it bothersome that the filter needs to be washed and cleaned often

In response, NCAC conducted product tests on the main cyclone vacuum cleaners currently being sold in Japan. The test results revealed the following:

- Compared to vacuum cleaners that use paper dust bags, the suction strength for many of the cyclone vacuum cleaners quickly deteriorated.
- Compared to vacuum cleaners that use paper dust bags, the cleanup performance for many of the cyclone vacuum cleaner brands was low.
- After sucking up a large amount of dust, the cleanup performance for most brands deteriorated.
- Some brands did not completely suck up the flour that had been scattered across the wooden floor used during the test.
- Some brands did not have a safety measure for the rotating brush that is attached to the suction duct for brushing up the garbage.
- For the brands with washable filters, because it takes time for the filters to dry, there is a possibility for the remaining water to be sucked into the motor.

- Some brands generated a fairly high noise figure of 78 dB (the same level of noise on a busy street during the day) during use.
- All of the brands had suction power that was below the indicated permissible range value (less than -10%).
- Cyclone vacuum cleaners require careful maintenance and hold less dust than vacuum cleaners that use paper dust bags.

In response to the above-mentioned results, NCAC offered the following advice to the consumers:

- Although cyclone vacuum cleaners and vacuum cleaners with paper dust bags each have their characteristics, there is a need to be aware that cyclone-type vacuum cleaners require careful maintenance and that it takes time for the filter to dry after washing it with water.
- The noise level of the cyclone vacuum cleaner is slightly higher compared to vacuum cleaners that use paper dust bags. The sound emitted by some brands in particular is extremely loud, so it is best that you check this point prior to purchase.
- For the brands with rotating brushes that do not stop rotating even when the suction duct is lifted off the floor, there is a hazard of injury with fingers becoming stuck in the brush etc. Thus, for families with children, it is best to check the safety features prior to purchase.

Based on these test results, NCAC made the following requests for improvement to the Japan Electrical Manufacturers' Association and the Ministry of Economy, Trade and Industry:

- ☆Requests to the Japan Electrical Manufacturers' Association
 - Safety major improvements of some brands that were not sufficient
 - Improvements of some brands that showed extremely loud noise levels
 - Display of more accurate rate of suction power
 - Improvements to make the cyclone vacuum cleaners more user-friendly
- ☆Requests to the Ministry of Economy, Trade and Industry
 - Instructions to the manufacturers of vacuum cleaners to display an accurate rate of suction power
 - Review of JIS for the purpose of measurement accuracy improvement

—Surveys and Studies—

Problems related to credit contracts for artwork and exhibiting contract

In October 2005, the President of NCAC consulted with the Special Committee for Handling Consumer Complaints* in regards to a consumer complaint case pertaining to a credit contract for artwork and an exhibiting contract.

In response, the Committee examined the matter and provided NCAC with the following advice in January 2006:

- *A committee that provides advice from a fair and neutral standpoint in response to a request for consultation by the President of NCAC concerning consumer complaints that require high levels of legal judgment.

○Details of the consumer complaint

The consuler received the following phone solicitation from an art dealer:

- Would you be interested in buying some artwork and earning revenue from displaying the pieces at exhibitions?
- In order to do this, you must purchase some artwork contained in the pamphlet that has been sent to you.
- One painting costs 980,000 yen which shall be paid for through credit payments, but you will earn revenue of between 20,000-40,000 yen per month from displaying the artwork.
- Companies must pay taxes when owning artwork. If holding a large number of artwork by registering pieces under personal names, the company makes a profit and will be able to pay a commission.
- If the company goes bankrupt and becomes incapable of making the payment, the credit contract will be cancelled.
- Personal exhibitions and exhibition shows will be held regularly and you will be informed each time the artwork is to be displayed.

After receiving the above-mentioned phone solicitation, the consuler signed three contracts on two separate occasions. The consuler received payments for the first few months after signing the contracts, but then the payments stopped coming. The consuler tried to call the dealer but was

unable to reach that person. The consumer has requested the contract cancellation to the art dealer, and made an assertion of payment stop to the credit company, but the credit company continues to claim payments.

○Conclusions

The Installment Sales Law is applicable in this case. On the premise that there is truth to this matter, in accordance with the following provisions, it is possible to make a claim based on “reasons arising from the distributor mediating the installment payments” for this sales contract with the art dealer due to the dissolution of the obligation to pay for the trading value of the artwork:

- The cooling off cancellation under Article 24 of the Specified Commercial Transactions Law, and annulment under Section 2 of Article 24 of the same law
- Annulment under Section 1 of Article 4 of the Consumer Contract Law
- Cancellation of default of obligation under Article 541 of the Civil Law
- Invalidation of error under Article 95 of the Civil Law

Furthermore, the consumer may contest requests by the credit company for repayment of advances under Section 4 of Article 30 of the Installment Sales Law. However, under the principle of faith and trust, this is limited to the total from which the amount the consumer had received as fees for displaying the artwork is deducted.

Survey related to the treatment of consumers by food-related businesses

All local consumer centers receive around 2,000 complaints every year in regards to the treatment consumers receive from food-related businesses. The types of complaints include issues such as: the unsuitable treatment of consumers when one makes a complaint, doubts about the handling of food safety, concerns about the recalling of products in response to accidents related to food and the efforts made by the company to announce these incidents to the public, and inquiries in regards to the concept of risk management.

In response, NCAC has conducted a fact-finding survey directed towards the consumer correspondence departments of food-related businesses nationwide in regards to the reception of requests for consultations and the system of cause determination, as well as of the food products connected with public announcements made by the company through newspaper ads.

The survey targeted a total of 820 businesses including manufacturers, retailers and wholesalers of food, and a valid response was obtained from 412, nearly half of them. Furthermore, NCAC established a research group of lawyers and food experts to study the following items:

- The claims made regarding food products and the treatment of these claims
- The labeling and information disclosure for new food products
- Efforts made towards ensuring the safety of the food products offered
- A management effort that demonstrates a compliance with food business policies.

The results of the survey and research, and the summary of future tasks are as follows:

• The consumer correspondence departments of food-related businesses receive numerous complaints and inquiries in regards to “response to consumers” along with those regarding “quality”, “safety and hygiene”, and “labeling”. Furthermore, in cases where information was provided through public announcements such as newspaper ads, the incidents that stood out included mislabeling, missing labels and law violations.

• In order to ensure the safety and assurance of food, the research group has made the following suggestions to food-related businesses in regards to responding to the concerns of the consumers in the future:

- To keep a record of all complaints and inquiries received by consumers and to share the information
- To respond promptly to complaints and inquiries
- To make efforts towards ensuring proper labeling
- To adopt a traceability system and provide consumers with useful recorded information
- To promote regular risk communication with consumers
- To make efforts towards announcing information concerning risks when problems arise
- To develop a compliance system

Survey related to consumer issues concerning fee-based nursing homes

There has been an increase in the number of fee-based nursing homes. In 1999, there were 303 nursing homes legally registered with the prefectural governments. This number grew over five times between 1999 and 2005. Furthermore, there has been an increase in the number of fee-based nursing homes that are not registered with the prefectural governments as well as a significant increase in the number of occupants. At the same time, in view of the requests for consultations received by each of the local consumer centers, the content of the requests for consultations that stand out are in regards to newly-established nursing homes, low-cost nursing homes, and nursing homes not registered with the prefectural governments.

In consideration of this situation, the Welfare Law for the Aged has been revised, and as of April 2006 the definition of fee-based nursing homes will come under review.

In response, NCAC will conduct the following surveys with the purpose of contributing to the advocacy of consumers by seeking ways to connect the recent revisions in the law to preventative measures and assistance in consumer-related damage:

- A fact-finding survey of fee-based nursing homes
- A fact-finding survey targeting departments controlling prefectural fee-based nursing homes
- A survey of the contents of explanatory material on the important matters of fee-based nursing homes

As a result of these three surveys the following problems have been revealed: the insufficient disclosure of information by nursing homes, the adjustment of lump-sum payments upon leaving the fee-based nursing homes, and the quality of care service.

After studying these survey results and the consultation cases received by the local consumer centers, the following seven suggestions have been made to the nursing homes and government:

1. It is necessary that the Information is disclosed prior to the conclusion of a contract, and that the provision of items such as explanatory material on important matters is made mandatory.
2. It is essential to indicate the specific contents of the care program as well as the aspects that are not included.
3. It is pertinent to establish a system whereby a prescribed period of time is provided during which the contract may be cancelled.
4. It is vital to specify the reasons for the collection of lump sum payments as well as the grounds upon which the account adjustments are based when an occupant leaves the nursing home.
5. It is essential to improve the quality of care service and to ensure the safety and peace of mind of the occupants.
6. It is essential to establish a plan to prevent the expansion of consumer-related damage.
7. There is a pressing need for the prefectural government and others to establish a system in order to protect the rights of the occupants.

NCAC has presented the above-mentioned proposals and has made a request for improvements to the Ministry of Health, Labor and Welfare, the Ministry of Land, Infrastructure and Transport, the Japanese Association of Retirement Housing and Tokutei Shisetsu Jigyousya Renraku Kyougikai (the Liaison Council for Specific Facilities).

The appropriate handling of personal information in terms of the telephone number information provided by telecommunication carriers

As of July 2005, the following type of requests for consultation has been received by the NCAC consultation center pertaining to personal information:

- A consuler was being disturbed by numerous phone solicitations for which the solicitors were suspected to have gained information from the telephone books distributed by a telephone company. When pointing out this matter to the telephone company, the consuler was told that "personal information is being handled in accordance with the guidelines stipulated by the presiding ministry and no problems exist".
- Is it true that a CD-ROM with data from telephone books is being sold?

The results of the survey conducted by NCAC, revealed the following:

(1) The present status of the system utilizing information from telephone books

- Upon concluding a contract for services such as fixed-line phones, the user is given an opportunity to choose whether or not to be listed in the telephone book and telephone number directories.
- As of July 2001, upon agreement of becoming listed in the phone book and telephone number

directories, this information is registered into the database for telephone number information that is managed by the telecommunication carrier.

- The information on this database is provided to third-party companies whose business is to publish telephone books and telephone directories.

(2) The problems from the standpoint of consumers

- Telecommunication carriers obtain permission from each contractor on whether or not their number can be listed in the telephone book. Furthermore, there is a contract clause that regulates the registration of the number in a telephone number information database.
- However, due to the large number of contract clauses and the confusion in the wording, it can not be affirmed that the consumers fully acknowledge their personal information is being “registered in a telephone information database” .
- In light of the low awareness of consumers compared to the increasing frequency of use of the telephone number information database by third parties, it is necessary to widely inform each individual.

Based on the results of the survey conducted by NCAC and the matters in question, in February 2006, the following requests have been made to authorized personal information protection organizations, etc., that are connected to telecommunication carriers:

- When confirming the agreement of new contractors as to being listed in the telephone book and telephone number directories, an explanation should be given that the telephone number information database will be provided to third parties and confirmation should be carried out as to whether or not it is permissible to register their number in telephone books.
- Current contractors should also be notified about the telephone number information database and it should be made publicly known that those who do not wish to be registered in the telephone book can have their information deleted upon request.

Furthermore, NCAC has provided information to the Ministry of Public Management, Home Affairs, Posts and Telecommunications and the Cabinet Office about the problems connected to telephone books.

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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