



NCAC NEWS

From
National Consumer Affairs Center of Japan
Vol.19 No.4 ***November 2007***

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(1) Consumer Affairs Climate

◇ Findings from the 'Financial Transaction Problem Hotline for the Elderly'

○ Outline

In order to prevent aggravated consumer damages involving the elderly, the National Consumer Affairs Center of Japan (hereinafter 'NCAC') conducted the 'Financial Transaction Problem Hotline for the Elderly' in cooperation with eight local consumer centers and three consumer associations over the period of two days. The findings from the hotline consultations and the characteristics of consumer inquiries and complaints are described below:

- There were 59 cases of inquiries and complaints related to 'financial transaction problems involving the elderly' (these inquiries and complaints were received by NCAC and 8 local consumer centers).
- The financial contracts that triggered these inquiries and complaints were largely associated with money-making financial transactions including the following: prelisted shares (14 cases), investment in investment associations (8 cases) and 'Loco-London' transactions (6 cases). Other inquiries and complaints were associated with insurance/fraternal insurance (10 cases) and multiple debts/consumer credit (9 cases).
- A contract sum in excess of 1 million yen was found in 27 cases, with the fairly high average contract sum of approximately 5.2 million yen.
- Consumer inquiries and complaints related to money making financial transactions were triggered by door-to-door sales and telemarketing targeting households. In most of these solicitations, business operators unrolled a one-sided solicitation ('uninvited solicitation') even though consumers did not wish to receive such a solicitation.

(2) Activities of NCAC

① Product tests

◇ Safety and effectiveness of hearing aids sold through mail orders (including the survey results concerning sales and services of hearing aids)

In order to take full advantage of hearing aids when wearing them, it is important to receive a fitting test in advance that is appropriate to the degree of hearing-loss of each customer. At present, however, there is no specific qualification required for people performing fitting tests and customers are obliged to rely solely upon the industry's self-certification system. In order to look into problematic areas, NCAC conducted tests on the safety and hearing effectiveness of hearing aids and sound collectors that are being sold without performing fitting tests. NCAC also carried out a questionnaire survey targeting distributors. The findings of the above tests and survey are described below:

- The number of hearing aids related consumer inquiries and complaints is increasing every year (these inquiries and complaints are received by PIO-NET (Practical living Information Online-NETwork)). Approximately 35% of the total consumer inquiries and complaints resulted from purchases from distributors that did not sell their products through outlets.
- The maximum volume level of some brands was excessive, while some brands performed poorly when amplifying the volume level of speech.
- 7 out of 10 brands used a frequency that was not suitable for hearing speech.
- 8 brands did not have an adequate hearing effectiveness when compared to hearing aids purchased after undergoing a fitting test.
- 1 brand did not meet the product labeling requirements set forth by the Pharmaceutical Affairs Law.
- According to the findings of the questionnaire targeting hearing aids distributors, approximately 40% of distributors that provided their responses to the questionnaire were not certified by the industry or affiliated with the industry. Furthermore, it was discovered that, in these cases, sales representatives with no appropriate qualifications carried out sales activities.
- Availability of equipment and instruments necessary for performing hearing tests and making adjustments to hearing aids differed according to the type of distributor. Nevertheless, the service details of distributors that provided their responses to the questionnaire were all similar (even though some distributors did not have the necessary equipment and instruments).

By taking into account the above findings, NCAC provided the following advice for consumers: 1) hearing aids must only be purchased after receiving a fitting test through a distributor that meets the relevant standards, and 2) hearing-impaired persons must not use sound collectors. Furthermore, NCAC made the following requests to the institutions concerned: 1) sales systems of hearing aids must be reviewed, 2) service levels must be improved, 3) standards concerning safety and effectiveness of hearing aids must be established, and 4) the product labeling requirements specified in the Pharmaceutical Affairs Law must be complied with. NCAC also requested these institutions to establish safety standards with regard to sound collectors.

◇ Be mindful when using 'cooking equipment designed to boil eggs in microwave ovens': Eggs may explode depending on how the equipment is used

In general, the direct heating of eggs using a microwave oven is prohibited as specified in the instruction manuals of microwave ovens due to the possibility of the egg exploding. 'Cooking equipment designed to boil eggs in microwave ovens is designed to 'boil eggs safely in microwave ovens.' With such equipment, the egg is shielded by metal so that it is not directly exposed to the microwaves. Nevertheless, PIO-NET has received consumer inquiries and complaints involving the relevant equipment. One example of such inquiries and complaints was that 'the egg exploded and the

microwave oven broke while using the equipment.’ Under these circumstances, NCAC investigated the safety of these products and provided information for consumers. The findings from the above investigation are described below:

- Eggs did not explode when using these products as instructed in their product labeling. However, the cause of an exploding egg is considered to occur due to these products failing to fully block out microwaves.
- An egg exploded when the following factors were introduced to the test: heating it over a longer period of time, increasing the output power, and decreasing the amount of water. In the case of heating an egg over a longer period of time, it was particularly hazardous as the egg exploded when applying a shock.
- The heated equipment and the hot water could cause burns.
- There was no precautionary labeling on the main bodies of these products to either indicate the necessity of pouring water in or to specify heating conditions.

The direct heating of eggs and the heating of metal using microwave ovens are generally prohibited. ‘Cooking equipment designed to boil eggs in microwave ovens’ contain a number of elements that are subject to prohibition. By taking into account the above findings, NCAC provided the following advice for consumers:

- It is necessary to understand that there is a risk of an egg exploding under certain circumstances while using these products as they do not completely block out microwaves.
- Ascertain the heating conditions when using such a product.
- Be careful not to be burnt by the equipment, the hot water or the egg immediately after the completion of heating.

◇ **Indoor air polluted by kerosene fan heaters**

Kerosene fan heaters are the most popular heating equipment found in lounge rooms during winter. With these heaters, however, it is important to be careful regarding not only possible burns and carbon monoxide poisoning, but also nitrogen oxides that harm respiratory organs. Additionally, a new problem involving these heaters has been causing growing public concern in recent years: ‘Volatile Organic Compounds (VOCs)’ including so-called ‘sick house syndrome’ and chemical sensitivity. During the period from the Fiscal 2002 to the end of August 2007, PIO-NET received 243 cases of safety hazard related information involving kerosene fan heaters. The details of these cases include the following: an abnormal and irritating odor was released that made the consumer’s eyes sore while using a kerosene fan heater, and a strong smell was released and the consumer’s throat became sore while using a kerosene fan heater. Consequently, NCAC investigated indoor air pollution caused by nitrogen oxides and VOCs occurring while using a kerosene fan heater. NCAC also looked into the effectiveness of ventilation. The findings from the above investigation are described below:

- When using a kerosene fan heater at the set temperature of 20°C:
 - The concentration of nitrogen dioxide in the room rapidly increased after turning the heater on. After approximately 10 minutes, the level went beyond the rough standards designated to protect health (within the range of 0.1 to 0.2ppm when using a kerosene fan heater over a short period of time). The level kept rising and reached approximately 0.5 to 0.8ppm after a half-hour period of time. In this way, kerosene fan heaters may harm health as they are repeatedly used over a long period of time on a day-to-day basis.
 - Due to occurrences of sick house syndrome triggering headaches, coughs and sore eyes whilst staying indoors, the Ministry of Health, Labor and Welfare has set a guideline value for the indoor concentration of an individual VOC and an interim target value for a Total Volatile Organic Compound (TVOC). According to the findings of the product test, the concentration of an individual VOC differed depending on each testing brand, though no VOC exceeded its

designated guideline value. On the other hand, the concentration of a TVOC produced by some brands went beyond the relevant interim targeted value ($400 \mu\text{g}/\text{m}^3$) after using these products over the period of 1 to 1.5 hours.

- When increasing the set temperature to 25°C:
 - In comparison to the set temperature of 20°C, the concentration of combustion gases including nitrogen dioxide increased and the indoor air environment was aggravated.
- When using a kerosene fan heater recommended to be used in a large room (a room with a maximum of 15 tatami mats) in a small room with 6 tatami mats:
 - When using a kerosene fan heater recommended to be used in a larger room in a small room, the concentration of combustion gases such as nitrogen dioxide and carbon dioxide was discovered to be almost equal to the concentration of combustion gases produced from a kerosene fan heater designed to be used in a wooden room with a maximum of 9 tatami mats. Furthermore, the concentration of the TVOC became 5 to 6 times larger after 3 hours of use.
- Effectiveness of ventilation
 - With ventilation carried out once every hour for one minute by opening two windows, approximately 40% of the concentration of combustion gases such as nitrogen dioxide was reduced and the rise of the concentration of TVOCs was brought back under control. In this way, letting in fresh air was discovered to be extremely effective. Although the room temperature dropped when ventilating the room, it was only temporary as the temperature was regained immediately after closing the windows.

By taking into account the above findings, NCAC provided the following information for consumers:

- The indoor air environment will be spoiled when using a kerosene fan heater in a closed-off room. Ventilate the room once or twice every hour.
- The indoor air environment will be further aggravated when increasing the set temperature. It is therefore recommended to use the heater at a moderate temperature.
- By taking into account indoor air pollution caused by VOCs, it is recommended not to use a heater with a heating output that is excessive for the actual room where the heater is used.
- Alternative heating equipment should be considered for households containing any person with a respiratory issue or illness and for households with children.

Furthermore, NCAC requested the industries concerned to reduce the levels of nitrogen oxides and VOCs produced by kerosene fan heaters. NCAC also made requests to the administrative bodies concerned to give instructions to these industries to reduce the levels of nitrogen oxides and VOCs produced by their products.

② Surveys

◇ **Serious injuries caused by the explosion of sealed PET bottles containing dry ice**

There have been six accident cases reported involving dry ice placed in a container such as a PET bottle (a bottle made from polyethylene terephthalate) which consequently exploded (one case was reported to PIO-NET, four cases to cooperating hospitals and one case to the 'E-mail for Consumer Problems*'). One example among these accidents occurred when the relevant consumer placed pieces of dry ice in a PET bottle to carbonate the left over juice within, the bottle expanded and this resulted in the cap blowing off. The cap hit the eyes of the consumer and, as a result, the consumer's eye sight was lost. When placing dry ice into an airtight container such as a PET bottle and screwing the cap to seal up the bottle, the dry ice sublimates from a solid matter to a gaseous matter and the bottle may explode due to the pressure created by the rapidly expanding dry ice. Under these circumstances, NCAC provided the following precautions to consumers:

- There is a high risk of a serious accident taking place as the debris of the exploded container will fly off over a wide area.
- Even if the container does not explode, an accident may still take place when unscrewing the cap.
- As a large number of juveniles are prone to suffer from these accidents, it is desirable for schools to warn their students in order to prevent similar accidents in the future.

* The 'E-mail for Consumer Problems' collects information from consumers through NCAC's website in order to concurrently understand the current status of consumer damages and to make a contribution to preventing such damages in the future. This email system is not designed to receive consumer inquiries and complaints, provide specific advice for consumers or undertake mediation services. The information gathered through this system is utilized for investigations, surveys, analyses and verifications as necessary. In this way, this email system is utilized to avoid consumer damages multiplying and prevent future consumer damages.

◇ **Consumer issues concerning sales of life insurance products: A rapid increase has been seen in these issues involving the elderly**

When looking at consumer inquiries and complaints concerning life insurance products (received by local consumer centers located throughout Japan), a tendency is seen whereby the elderly are being targeted. The number of consumer inquiries and complaints involving life insurance products shows an upward tendency. In this fiscal year so far (from April to July), the number of inquiries and complaints involving people at the age of seventy and older has already reached 650 cases. This significantly surpasses the number of inquiries and complaints in the same period in the previous fiscal year which was 288 cases. NCAC accordingly summarized the following problematic areas with regard to life insurance contracts that target the elderly:

- According to the inquiries and complaints raised from the elderly concerning life insurance contracts, business operators carried out solicitations emphasizing particular areas such as 'asset management' and 'private pensions.' In some cases, the contents of a contract were modified against the will of the relevant policy holder.
- In some cases, the elderly, who are generally in need of adequate sums of money for potential treatment of illnesses and injuries, were forced to conclude a contract of an insurance product with an extensive contract term. Furthermore, such a product would 'fall below par' if the contract was to be cancelled before the maturity date.
- The elderly were not made aware of important contract details such as their children and grandchildren being nominated as the assured.
- The elderly were required to pay a high premium rate that was not appropriate when taking into consideration their income and assets. A number of these consumers are now 'not even able to pay the premium.'

By taking into account the above findings, NCAC provided the following precautions to consumers:

- An elderly person should not independently conclude any insurance contract of a complicated structure. The elderly should give careful thought to the matter by consulting people close to them such as their family members.
- By taking into account their age and health conditions, the elderly should carefully consider as to whether or not they really need such insurance at a high premium rate which maybe challenging to continue with.
- Consult with the nearest local consumer center as soon as practicable when running into a problem or feeling uncertain about the contents of the contract.

NCAC also made the following requests to the industries concerned:

- Sales representatives must comply with the relevant suitability rules and fulfill their accountability.

- Appropriate sales solicitation rules to deal with the elderly must be established and complied with.
- The contents of a contract must thoroughly be evaluated as to whether or not they are really suitable for an elderly person.
- Sales representatives must obtain further education for their own improvement.

◇ **A large number of consumer complaints raised from the elderly concerning 'overseas lotteries': It is important not to be tempted and not to purchase**

NCAC has previously warned consumers concerning overseas lotteries solicited through direct mails. Nevertheless, 8,000 cases of consumer complaints have been received annually in recent years. NCAC summarized the current status of consumer issues involving overseas lotteries and the problematic areas as described below:

- The methods adopted by direct mail businesses have become more malicious and diversified. A significant number of consumer inquiries and complaints regarding this issue have been raised by the elderly.
- The amount of damages shows an upward trend.
- In principle, sales, sales agency businesses and/or giving and receiving of overseas lottery tickets within Japan are considered to conflict with criminal laws (pertaining to lottery ticket sales).
- In a large number of cases, business operators have an overseas office, purchase lottery tickets on behalf of a consumer and send the prize money if the relevant consumer has won the lottery. Nevertheless, there is no guarantee that such money will definitely be paid to the consumer. It can therefore be said that these transactions are extremely volatile.
- Payment methods to purchase overseas lottery tickets (i.e. by cash, fixed money orders or credit card) are also found to be problematic.

By taking into account the above findings, NCAC provided the following precautions to consumers:

- Do not be tempted by 'sweet talk' contained in a direct mail and never purchase any tickets.
- The people around an elderly person must provide support for him/her.

◇ **Consumer issues concerning theater tickets purchased through an internet auction**

NCAC contains the Special Committee for Handling Consumer Complaints* in order to handle consumers complaints in an appropriate and effective manner. On May 15 2007, the Executive Director of NCAC sought advice of the above committee regarding the following issue: 'the interpretation of the compensation provisions specified by a particular internet auction administrator and the methods to settle the relevant dispute.' In response, the committee established a subcommittee to deal with this particular issue and the subcommittee provided its recommendations on August 31 2007 (as regards methods to handle the relevant consumer complaint). The details of the recommendations are described below:

Note : By receiving a proposal made by the Executive Director of NCAC regarding a consumer complaint case that requires a high level of legal judgment, the Special Committee for Handling Consumer Complaints provides recommendations to NCAC from fair and neutral points of view.

○ Details of complaints

The relevant consumer (hereinafter 'X') found that the theater tickets, which X had not been able to purchase, were placed on an internet auction. X made a successful bid for two 'S' seats at 173,000 yen. However, X felt suspicious when he saw the tickets that were sent after making the payment. X asked the company that had issued the tickets to verify the authentication and was told that the tickets were forged. X accordingly filed a complaint to the police. The police looked into the bank account which was specified by the party that had placed the tickets in the internet auction of concern. X' s complaint was accepted as the police recognized that the case contained

criminal elements. X then emailed the relevant internet auction administrator (hereinafter 'Company Y') to claim compensation for the forged tickets in accordance with the administrator's compensation provisions. However, Company Y stated that the relevant case was not subject to their compensation provisions. X is feeling dissatisfied with the company's answer.

○ Conclusions

- It is not rational that Company Y decided not to compensate for the relevant tickets in accordance with their compensation provisions. The sum of 138,400 yen must be paid to X who has suffered from fraud in compliance with such provisions.
- Although Company Y has changed their explanation to X as to why the relevant case was not covered by their compensation provisions, there have not been any rational reasons provided to X for the change of explanation. The subcommittee believes that the company's compensation provisions are unclear and difficult to understand and that Company Y's handling of this case was inappropriate.
- The contents of the relevant compensation provisions are difficult to understand even for legal experts. As specified in the Consumer Affairs Fundamental Act (Number 2, Paragraph 1, Article 5) and the Consumer Contract Law (Paragraph 1, Article 3), business operators must principally provide the necessary information for consumers in a clear and easy-to-understand manner..
- Company Y must improve their compensation provisions.

③ Others

◇ **NOVA's responses to the requests for improvement previously made by NCAC and the current status of consumer inquiries and complaints concerning NOVA**

The number of consumer inquiries and complaints concerning NOVA, the industry's largest corporation providing foreign language lessons, has been increasing rapidly. Even after the Supreme court's decision, consumer issues involving NOVA's settlement policies applicable to people who had a contract cancelled before the maturity date have not been solved as yet (NCAC requested NOVA to improve its consumer handling capacity and to solve issues involving early termination of a contract in June 2007). Under these circumstances, NCAC made the following requests to NOVA on August 1 2007:

- An independent department to receive and handle consumer complaints must be established in accordance with the Consumer Affairs Fundamental Act and consumer complaints must be dealt with in an immediate and proper manner to facilitate faster problem-solving.
- In accordance with the Supreme Court's decision and the administrative penalties imposed by the Ministry of Economy, Trade and Industry, the current settlement policies applicable to people who have recently cancelled a contract before the maturity date must apply to people who had cancelled a contract before the maturity date in the past.

NOVA's verbal responses to the above requests are described below:

- The functions of the department currently handling student inquiries will be improved.
- In accordance with the Supreme Court's decision, the unit price applied at the time of the contract conclusion will be used when carrying out calculations to discover refund amounts.
- For people who asked for a refund of the accumulated points after June 13 (when the administrative penalties were imposed on NOVA by the Ministry of Economy, Trade and Industry), the calculation to discover the amount of such a refund will be carried out on the basis of the points that were earned by actually attending classes.
- Carrying-over points are not covered by the settlement policies.

* After NCAC released the above information on October 25 2007, NOVA filed for protection under the bankruptcy law and received the extirpation on October 26.