



NCAC NEWS

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—Inside of this issue—

- 2007's Top Ten Issues in Consumer Consultations
- Safety of folding bicycles
- Be aware to prevent your child falling from a folding baby changing table!!
- Chemical burn caused by the breakage of a Galileo Thermometer
- A consumer issue involving a group life insurance contract that occurred alongside a home loan refinance (a recommendation of the subcommittee of NCAC's Special Committee for Handling Consumer Complaints)
- An increasing number of consumer inquiries and complaints involving self-publication
- Consumer issues involving 'a string of sales' (with a focus on consumer inquiries and complaints involving credit cards)
- Utilization status of the Consumer Contract Law from the consumer consultation point of view
- Trends in both consumer consultation cases involving accidents caused by products and lawsuits based on the Product Liability Law
- Consumer inquiries and complaints relating to the Consumer Contract Law as well as general aspects of trials that relate to the Consumer Contract Law

(1) Consumer Affairs Climate

2007's Top Ten Issues in Consumer Consultations

The National Consumer Affairs Center of Japan (hereinafter 'NCAC') collects information of consumer inquiries and complaints that have been handled by nation-wide local consumer centers through PIO-NET (Practical living Information Online-NETwork). The information collected through PIO-NET plays a crucial role as an information source in revealing trends and the up-to-date status of consumer issues. Amongst consumer issues that arose a large number of consumer inquiries and complaints; those with a rapidly increased number of consumer inquiries and complaints; and those that attracted public attention in 2007, NCAC has selected 2007's top ten issues as below:

1. A corporation providing foreign language lessons caused a series of problems involving early contract terminations.
2. A series of false labeling cases involving food products were disclosed.
3. Extensive consumer damages occurred as a result of questionable 'investment' cases.
4. Accidents caused by products became more diverse and the countermeasures to prevent these accidents were consequently tightened.
5. A series of serious accidents took place involving facilities and/or equipment.
6. The discussion to revise both the Act on Specified Commercial Transactions and the Installment Sales Law showed progress while a number of illegal business practices were exposed and a series of administrative penalties were imposed on these practices.
7. The handling of consumer issues involving multiple debts showed progress.
8. The Financial Instruments and Exchange Law were enacted, clarifying the accountability of business operators.

9. The Consumer Organizations Lawsuit System was launched.
10. The number of emails received by the 'E-mail for Consumer Problems' increased.

(2) Activities of NCAC

① Product tests

Safety of folding bicycles

During the last five years, 54 cases of accident instances involving folding bicycles were reported through PIO-NET. Some of these accidents were serious such as 'the particular consumer fell down due to the sudden breakage of the left pedal of the bicycle while riding whereby the consumer consequently suffered a bone fracture in the palm of the hand' and 'the particular consumer fell down due to the fixing bracket of the bicycle handle having suddenly come off while riding whereby the consumer consequently suffered a bone fracture to the leg.' Under these circumstances, NCAC investigated as to whether or not there were any problems in the strength and brake functions of folding bicycles for daily use. The findings of the above investigation are described below:

- When looking into the components locking the folding part of the supporting pole of the bicycle frame and handle, it was revealed that most of the testing bicycles had the structure to prevent the bicycle body from being quickly folded. However, the lever release strength of some testing bicycles was found to be insufficient.
- The pedals of some testing bicycles with a folding mechanism significantly sagged in a downward direction when applying a large load outwardly whereby the pedals consequently broke.
- Some testing bicycles demonstrated a risk of a fall in a forward direction due to rapid braking as a result of gripping the front brake strongly.
- When examining the testing bicycles to discover whether or not they had features necessary to maintain road safety, it was revealed that some bicycles were not equipped with either a lamp or a front reflector. Furthermore, a large number of bicycles did not have labeling containing adequate information to encourage consumers to undertake an inspection to see the condition of locked areas.

NCAC provided the following advice for consumers by taking into account the above product test findings:

- Folding bicycles need to undergo a checkup before use. Ask yourself as to whether or not you really need a bicycle with a folding feature before purchasing it.
- Do not apply your weight onto the outside of the pedals of a bicycle with a folding mechanism as these pedals may not endure a large load applied outwardly.
- Ensure that a lamp and a front reflector are installed on the product. If not, purchase and install them separately.

Furthermore, NCAC made the following requests to the industry: to retain safety, to undertake thorough quality controls, to retain safety for nighttime riding, and to improve labeling relating to inspections and operating methods. Furthermore, NCAC requested governmental organizations to establish a certain level of regulations governing the following: the structure of folding bicycles, the strength of pedals, and the strength of front brakes (which is currently excessive).

② Surveys

Be aware to prevent your child falling from a folding baby changing table!!

The Injury Information System operated by NCAC has received accident information whereby an infant fell from a folding baby changing table and consequently suffered a skull fracture. (Folding baby changing tables are placed in baby rest rooms and bathrooms of department stores, shopping centers, railroad stations and communal facilities. These tables are usually installed in a wall of these rooms at a height of approximately 80cm from the floor.) Since a total of 18 accident cases of a child having fallen from a baby changing table were also reported from cooperating hospitals collecting safety hazard related information, NCAC provided the following warnings to consumers:

- Although a baby changing table is useful equipment for a parent carrying an infant, manufacturers insist that these products are solely designed for nappy changing. It is therefore essential to ensure that a baby changing table is used only when changing a nappy and that a parent watches the child and keeps holding down the child with the hands while changing a nappy.

Furthermore, NCAC made the following requests to the industry:

- If a baby changing table is placed within the premises of a bathroom, a user may leave his or her child lying on the table while using the bathroom. It is thus important for the industry to not only respond to this issue by providing cautionary statements or warning labels, but also to create a structure that primarily prevents an accident and to ensure that the placement of a product is appropriate. It is desired to work out ways to a greater extent to prevent parents from holding a misapprehension concerning the safety and convenience of a baby changing table.

Chemical burn caused by the breakage of a Galileo Thermometer

NCAC has received a report stating that the particular consumer 'suffered a chemical burn caused by the breakage of a Galileo Thermometer.' (A Galileo Thermometer utilizes changes to the gravity of the liquid contained in its cylinder consistent with temperature changes. A number of spheres with a plate indicating a temperature are suspended within the liquid.)

○ **Accident case 1**

A one-year old girl was carried to hospital by ambulance after being splashed with the liquid contained in a Galileo Thermometer. Although the sales advertisements of the product available on the Internet stated that the product was 'harmless and safe,' these advertisements did not indicate the ingredients of the liquid and the first aid methods therefore could not be identified.

○ **Accident case 2**

A Galileo Thermometer broke after a child touched it whereby the child was consequently exposed to the slimy liquid contained in the thermometer. Although the consumer immediately washed the hands of the child, the legs and other body parts exposed to the liquid were left unwashed. Approximately one hour later, the affected areas that were unwashed became sore and red. The smell of kerosene did not leave the clothes of the child. The consumer took the child to a hospital's emergency ward and medicine was prescribed. The doctor asked the consumer to make an inquiry into the sales outlet of the product for the ingredients of the liquid. However, the sales outlet was reluctant to provide a straight answer. There was no warning label in the outer case of the product.

NCAC tested eight Galileo Thermometer brands which were purchased through the Internet. As a result, certain ingredients, which are generally used in oil based dry cleaning agents and kerosene, were detected in the liquid of the cylinder of a dominating number of brands, while only one brand seemed to adopt the water as the main ingredient of the liquid. A chemical burn may take place if leaving liquid containing these ingredients on the skin or clothes. Furthermore, when looking into the product labeling contained in the outer cases or attached documents provided by the testing brands, four brands were found to provide no statements describing the ingredients of the liquid or explaining first aid methods required in the event of being exposed to the liquid as a result of a breakage of the cylinder glass. NCAC provided the following warnings to consumers by taking into account the above findings:

- When purchasing a Galileo Thermometer, select a product that has a label properly describing the ingredients of the liquid and other necessary information.
- Make sure to keep children away from the product.
- Do not use the product near a flame or heating equipment as it may catch fire under certain circumstances.
- Think out a way to display the product such by fixing it to a surface to prevent it falling.
- If a Galileo Thermometer breaks and the skin is exposed to the liquid contained in its cylinder, rinse it away immediately by using plenty of running water. If the clothes are splashed with the liquid, take the clothes off promptly and rinse the liquid away immediately by using plenty of running water. Visit a medical facility to have a checkup if necessary.

A consumer issue involving a group life insurance contract that occurred alongside a home loan refinance (a recommendation of the subcommittee of NCAC's Special Committee for Handling Consumer Complaints)

NCAC contains the Special Committee for Handling Consumer Complaints* in order to handle consumers complaints in an appropriate and effective manner. The Executive Director of NCAC sought advice of the above committee on May 15, 2007 regarding the following: 'In the event of a home loan refinance, whether or not a financial institution holds contractual accountability regarding disadvantages derived from a cancellation of a group life insurance contract or a re-conclusion of such a contract.' In response, the committee established a subcommittee to deal with this particular issue and the subcommittee organized its recommendations (as regards methods to handle this particular consumer complaint) on August 31, 2007. The details of the recommendations are described below:

(* 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.)

o *Details of the complaint of concern*

The consumer of concern started to repay the home loan from 1999. In 2005, she was offered a refinancing of the loan by a clerk of Bank A (a country bank). She could not refuse the offer as the clerk carried out a number of solicitations and she therefore concluded the contract in October, 2005. During the contract conclusion occasion, the consumer signed and placed a seal on several documents including an insurance contract (disclosure statement) by following the instructions of the bank clerk. Although the consumer's husband was visiting hospital regularly to receive medication at the time from the previous month due to cirrhosis, both her husband and herself failed to realize the importance of 'duty of disclosure,' which is imposed when taking out an insurance. For this reason, the consumer did not provide the medical history of her husband in the disclosure statement. After May 2006 when the consumer's husband passed away due to cirrhosis, the insurance company investigated the matter and, as a result, it refused to pay the insurance benefit to the bank by insisting that breach of duty of disclosure was committed by the consumer. The consumer was consequently obliged to keep repaying the home loan.

The bank clerk solely focused on explaining the advantages of the refinance and completely failed to explain any disadvantages derived from the refinance. The consumer wonders whether or not the bank holds accountability to explain the disadvantages of such a transaction.

o *Conclusions*

The subcommittee examined the above case and reached the following conclusions:

- The financial institution of concern (Bank A) responsible for crediting the home loan should hold the accountability in terms of the following: 1) A new group life insurance contract has to be concluded due to the home loan refinance and the previous group life insurance contract consequently becomes void, 2) the new group life insurance contract may not be executed depending on the health conditions of the contractor(s) at the time of the refinance, and 3) the insurance benefit may not be paid if duty of disclosure is breached when taking out the new group life insurance.
- In cooperation with Bank A, the insurance company, which operates the relevant group life insurance product in alliance with Bank A, should also be obliged to underpin the explanation of Bank A such as preparing appropriate documents to support such an explanation.
- On assumption of the above circumstances, the aforementioned consumer has suffered a damage equivalent of the sum of the insurance benefit due to the breach of accountability committed by Bank A and/or the insurance company. The consumer is therefore entitled to make a compensation claim to recover the relevant sum. However, even if such a compensation claim is accepted, a comparative negligence should applied to the payable sum due to the breach of duty of disclosure committed by the consumer concerning her husband's medical history.

An increasing number of consumer inquiries and complaints involving self-publication

There have been an increasing number of consumer inquiries and complaints involving self-publication. These cases involve people who wish to organize and publish a book containing their poetry, novel or photographs at their own cost. Examples of these cases are as follows: 'the particular consumer was encouraged to publish a book after receiving compliments for his work and signed the contract in high spirits. However, the consumer has had second thoughts and wished to cancel the contract' and 'the relevant publication contract was not properly executed.' 706 cases of consumer inquiries and complaints involving self-publication have been reported through PIO-NET since the Fiscal 2002. As of the last day of September in the Fiscal 2007, 130 cases of consumer inquiries and complaints took place which is approximately twice that of the identical period in the previous fiscal year. The problematic areas of this issue are described below:

- In some cases, a contract is concluded as a result of the business operator encouraging the consumer to sign it by taking advantage of the emotional excitement of the consumer.
- In the event of a contract conclusion, the breakdown of the sum required for the self-publication is unclear in some cases.
- The book does not turn out to be what was initially intended and promised.
- Consumers are unable to find out whether or not the contract has properly been executed.

NCAC provided the following information to consumers in order to prevent occurrences of similar problems and to rein in the expansion of the existing problems:

- Keep calm when considering self-publication as it is not easy to sell a book.
- Obtain quotes from a number of companies to be able to compare sums required to privately publish a book as well as the contract contents.
- Contact the business operator at an early time to discover whether or not the contract has been properly executed.
- Consult the nearest local consumer center if facing any problems.

Consumer issues involving 'a string of sales' (with a focus on consumer inquiries and complaints involving credit cards)

In 2005, there was a particular incident whereby a business operator forced elderly sisters suffering from dementia to conclude a series of contracts for housing renovation work. In the wake of this incident, public concern has been heightened towards 'a string of sales' whereby a consumer who has concluded a contract is targeted by the identical or a different business operator to make a string of new contracts.

NCAC has summarized the current status and problematic areas of consumer issues caused by 'a string of sales' as below:

○ *Current status of consumer issues caused by 'a string of sales'*

- 16,113 cases of consumer inquiries and complaints involving 'a string of sales' were handled by nation-wide local consumer centers in the Fiscal 2006.
- By sorting victims by age, approximately half of these victims are in their 60s or older. Furthermore, a large number of consumer inquiries and complaints, accounting for approximately 39 %, are from young people in their 20s to 30s.
- Approximately 60% of cases utilized a sales credit system. In such a system, 'third-party credit for each commodity' accounts for over 90%.

○ *Problematic areas*

- A sales representative approaches a consumer through door-to-door sales and/or tele-marketing. The sales representative provides a solicitation of a long lasting duration; adopts aggressive solicitation methods; and/or provides false information. The sales representative consequently makes the consumer confused and forces him or her to conclude a contract while the consumer is unable to make a level judgment. After concluding a contract, a series of solicitations are carried out repeatedly and this tends to result in excessive sales.

- There are other problems derived from 'a string of sales' apart from the sales methods adopted. In a number of cases, excessive credit which goes beyond the paying capacity of a consumer and inappropriate credit given to the elderly who are pensioners or who have impaired judgment appear to have caused an extensive damage to a noticeable degree. A large number of cases leave questions as to whether or not credit companies have made any inquiries to financial institutions that are handling consumers' credit files to verify and/or inspect the paying capacity of the consumer and to provide an appropriate credit assessment.
- In cases involving 'a string of sales,' 'third-party credit for each commodity' accounts for over 90% in the sales credit system adopted. Problems derived from this type of contract are related to affiliated stores of the credit company of concern and the management status of these stores. Although the Ministry of Economy, Trade and Industry has provided a number of instructions in response to these issues, instructions are unfortunately not adequate enough to solve these problems when looking at the current status of consumer issues caused by 'a string of sales.'

NCAC provided the following warnings to consumers by taking into account the above findings:

- Firmly reject any unnecessary solicitations.
- Do not believe what a sales representative explains is true and examine the matter with a level judgment.
- Families, friends and acquaintances of the elderly should take a role in preventing illegal business practices from taking place.
- Consult with the nearest local consumer center if facing any problems.

Utilization status of the Consumer Contract Law from the consumer consultation point of view

The Consumer Contract Law, which was enacted in April 2001, has proactively been utilized in consumer consultation cases and other occasions as a solution for problems derived from consumer contracts. Nonetheless, sales activities have become more vicious and skillful with a great number of unjustified solicitations occurring that take advantage of consumers' weaknesses. There are also prominent serious cases whereby the damage is difficult to be recovered. Under these circumstances, NCAC has carried out the following in order to discover ways to relieve consumer damages that are becoming more serious: an analysis of case examples of consumer inquiries and complaints involving consumer contracts and a survey targeting consumer center counselors concerning the utilization status of the Consumer Contract Law. By taking into account the findings of the above analysis and survey, NCAC has established the following three recommendations relating to the Consumer Contract Law:

- Disadvantageous position of consumers should be improved.
- The establishment of countermeasures is essential to tackle unjustified solicitations that take advantage of consumers' weaknesses.
- Disadvantageous position of consumers should also be improved for dispute settlement procedures.

③Others

Trends in both consumer consultation cases involving accidents caused by products and lawsuits based on the Product Liability Law

In order to learn the utilization status of the Product Liability Law, NCAC has made a study on trends in consumer consultation cases involving accidents caused by products that have been reported through PIO-NET and has summarized the findings of this survey. Furthermore, NCAC has sorted out trends in lawsuits that have taken place based on the Product Liability Law.

○ Trends in consumer consultation cases involving accidents caused by products

- In the Fiscal 2006, there were 10,270 cases of consumer inquiries and complaints relating to accidents caused by products. 5,339 amongst these cases reported extensive damages.
- As for the breakdown of extensive damages, 4,209 cases reported extensive damages to health, 933 cases detailed extensive damages to objects and 197 cases involved extensive damages to both health and objects.
- As for consumer inquiries and complaints detailing physical extensive damages sorted by product, 'health

foods' demonstrated the largest share. As for cases involving these extensive damages sorted by hazard details, the category of 'other accidents and sicknesses as well as other symptoms' (i.e. 'feeling run-down' and 'feeling sick) accounted for the largest share.

- As for consumer inquiries and complaints detailing extensive damages to objects, 'air-conditioning equipment/cooling and heating equipment' displayed the largest share. As for cases involving these extensive damages sorted by hazard details, the category of 'igniting/catching fire' accounted for the largest share.

○ ***Trends in lawsuits based on the Product Liability Law***

NCAC has learned of 103 cases of lawsuits based on the Product Liability Law (according to the data collected up until August 31, 2007). Five out of these cases have taken place after 2006.

Consumer inquiries and complaints relating to the Consumer Contract Law as well as general aspects of trials that relate to the Consumer Contract Law

NCAC has sorted out consumer inquiries and complaints relating to the Consumer Contract Law and has summarized major examples and tendencies of unjustified solicitations and unreasonable contractual terms. Furthermore, NCAC has summarized general aspects of trials that relate to the Consumer Contract Law.

○ ***General aspects of consumer inquiries and complaints that relate to the Consumer Contract Law***

[Unjustified solicitations (in relation to Article 4 of the Consumer Contract Law)]

- As for '(1) Solicitations that lead to consumer misunderstandings,' there were 39,613 cases of 'false explanations' whereby a sales representative provided an inappropriate sales-pitch. 32,713 cases were associated with 'lack of explanations' and 17,347 cases involved 'side-business practices.' Furthermore, 28,569 cases were related to 'concealment of sales purposes' which is a malicious method to lead to consumers misunderstandings in the initial phase of a solicitation, 25,707 cases involved 'business practices proclaiming services provided free of charge', 9,721 cases detailed 'a sales representative lying about his or her identity' and 7,540 cases were associated with 'business practices making sales by posing as an inspector and declaring the need for replacing items.'
- As for '(2) Solicitations that make consumers confused,' the large number of consumer inquiries and complaints were related to 'aggressive/compulsive' sales activities reaching 57,898 cases.
- As for '(3) Other inappropriate solicitations,' 19,777 cases were associated with 'secondary damages,' 14,239 cases involved 'a string of sales' and 7,037 cases were related to 'contracts concluded with people with impaired judgment.'

[Unreasonable contractual terms (in relation to Article 8 to 10)]

- There were 18,855 cases of consumer inquiries and complaints relating to 'cancellation fees' in relation to Number 1, Article 9.
- 9,294 cases were related to 'delinquency charges' in relation to Number 2, Article 9.
- 22,628 cases were related to 'deposits' in relation to Article 10.

○ ***General aspects of trials that relate to the Consumer Contract Law***

- NCAC learned of 14 trial cases that were carried out in relation to unreasonable contractual terms (Article 8 to 10)
- As for the details of these trials, 8 cases involved refunds of school expenses and 4 cases were associated with refunds of lease deposits.
- 6 cases were related to unjustified solicitations (Article 4).