

GUIDELINES FOR THE INTERPRETATION OF  
THE NOTIFICATION ON PREMIUM OFFERS  
BY LOTTERIES OR PRIZE COMPETITION

April 1, 1977

Secretary General Notice No. 4

(Amendments : Secretary General Notice No. 11 of October 1, 1988,  
Secretary General Notice No.1 of February 16, 1996)

Upon a decision of the Fair Trade Commission (hereinafter referred to as "the FTC"), the Notification Concerning Designation of Premium, Etc. (FTC Notification No. 4 of 1977) should be interpreted in accordance with the following guidelines;

**Guidelines for the Interpretation of the Notification on Premium Offers by Lotteries or Prize Competition**

I. Interpretation of "methods of determining by chance such as lotteries" in Section 1, Subsection 1 of the Notification

The following examples illustrate "methods of determining by chance such as lotteries" :

- A. Methods involving the use of winning tickets;
- B. Methods involving the use of receipts, product containers or wrapping or the like as winning tickets;
- C. Methods in which premiums are attached to certain commodities only and where the purchaser is unable to know which one contains the premium at the time of purchase;

D. Methods in which premiums are attached to all products but with variation in terms of value or other factors of the attached premiums, and where the purchaser is unable to know the value at the time of purchase; and

E. Methods involving treasure hunts, scissors-paper-rock games and the like.

## II. Interpretation of "methods of determining through superiority or correctness in a particular performance" in Section 1, Subsection 2 of the Notification

The following examples illustrate "methods of determining through superiority or correctness in a particular performance":

A. Methods of soliciting predictions about matters that are not generally known at the point of application (e.g. the top ten news stories of the year) and determining through the superiority or correctness of responses;

B. Methods of soliciting catch-phrases, photographs, ideas for improving products and the like, and determining through the superiority of the same;

C. Methods of soliciting answers to puzzles, quizzes and the like and determining through the correctness of the same; and

D. Methods of determining superiority with respect to contests such as bowling or fishing, performance, sports or other areas (excluding sales contests, exhibition contests, and other methods of determining through superiority on the basis of transaction volume or other transaction figures among entrepreneurs).

## III. Interpretation of order of placement

Determination on the basis in order of entry into a premise or order of application received shall not be considered "lottery or prize competition" (this may be subject to the provisions of "Notification on Premium Offers to General Consumers" or other Notifications).

## IV. Interpretation of Section 5 of the Notification (card combinations)

The following shall not be deemed to constitute methods involving card combinations under Section 5 of the Notification:

A. The party to transactions is required to present a certain combination of various different cards, where the combination can be acquired by making certain choices at

the time of purchase (this does not constitute a "lottery or prize competition other than card combination" either, but may be subject to the provisions of "Notification on Premium Offers to General Consumers" or other Notifications);

B. Cards bearing various point values (such as one-point, two-point and five-point coupons) are issued to purchasers and premiums are offered in accordance with the number of points once a given points total has been accumulated (while this does not constitute a card combination, it will constitute a lottery or prize competition when the purchaser cannot know the point value of the cards at the time of purchase (see also Section 1, Subsection 4 of these Guidelines). If the purchaser can know the point value at the time of purchase, then this may be subject to the provisions of "Notification on Premium Offers to General Consumers" or other Notifications); and

C. Two or more different cards are issued, and premiums are offered in return for presentation of a given number of the same type of card rather than a combination of different cards (while this does not constitute a card combination, it will constitute a lottery or prize competition when the purchaser cannot know the type of card included at the time of purchase (see also Section 1, Subsection 3 of these Guidelines). If the purchaser can know the type of card at the time of purchase, then this may be subject to the provisions of "Notification on Premium Offers to General Consumers" or other Notifications).

V. Interpretation of "value of transaction in connection with a lottery or prize competition" in Section 2 of the Notification

A. Section 1, Subsection 1 through 4 of "the Guidelines for the Interpretation of the Notification on Premium Offers to General Consumers" shall apply to the value of transactions involving a lottery or prize competition.

B. Where premiums are offered through two or more lotteries or prize competitions in connection with the same transaction, the following shall apply:

1. Where the premiums are provided by the same entrepreneur but even if under different schemes, the value of premiums provided shall be the sum total of the value of the respective premiums;

2. Where the premiums are provided in conjunction with other entrepreneurs but under different schemes, each entrepreneur is deemed to have provided premiums equivalent to the value of the sum total of the respective premiums; and

3. Where an entrepreneur provides the winner of a lottery or prize competition with additional premiums through an additional lottery or prize competition but not in conjunction with other entrepreneurs, the entrepreneur which provides additional premiums is deemed to have provided premiums equivalent to the value of the sum total of the respective premiums.

#### VI. Interpretation of the limit on premiums provided by a lottery or prize competition

The value of premiums provided in a single transaction involving a lottery or prize competition must not exceed the maximum limit stipulated for the transaction, including cases where a single lottery or prize competition affords multiple opportunities to obtain premiums (e.g. where a lottery ticket is drawn and a premium provided and then the same lottery ticket is drawn again and another premium provided, the total value of premiums obtained must not exceed the maximum limit).

#### VII. Interpretation of "estimated total value of transactions involving a lottery or prize competition" in Sections 3 and 4 of the Notification

This shall be defined as the estimated total retail value of the relevant commodities during the period of the lottery or prize competition sale.

#### VIII. Interpretation of "certain district" in Section 4, Subsection 1 and 3 of the Notification

A. "Certain district" shall be the municipal region (in Tokyo, the KU (special word) or municipality) in which are located the stores and/or business premises of the retailers and service suppliers involved in the joint lottery or prize competition defined in Section 4, Subsection 1 and 3.

Where a considerable number of retailers and/or service suppliers are involved in a joint scheme within a region smaller than a single municipality (in Tokyo, KU or municipality), the definition of "certain district" shall be based on a consideration of factors such as the competition circumstances in the relevant industry and district.

B. Where a joint lottery or prize competition staged by entrepreneurs other than retailers and service suppliers involves a considerable number of entrepreneurs who provide the same type of commodities in the district where the lottery or prize competition sale is being staged, this shall be deemed to fall under Section 4, Subsection 3 of the Notification.

IX. Interpretation of joint lottery and prize competition schemes in Section 4, Subsection 2 of the Notification

Lotteries or prize competitions staged by shopping district cooperatives set up in accordance with the provisions of the Shopping District Promotion Association Law shall be treated as joint lotteries or prize competitions under Section 4, Subsection 2 of the Notification.

X. Interpretation of "considerable number" in Section 4 of the Notification

Where the participants in a joint lottery or prize competition constitute a majority of "retailers or service suppliers" or "entrepreneurs in a specific industry" in the district and also the greater part of the ordinary participants in lotteries and prize competitions, this shall be deemed to be a "considerable number."

XI. Interpretation of "specific industry" in Section 4, Subsection 3 of the Notification

As a general rule, "specific industries" shall correspond to sub-classifications given under the Standard Industrial Classification for Japan (e.g. 1311 soft drink manufacturing, 7231 hairdressing, 7663 golf courses). Where determination cannot readily be made on the basis of these sub-classifications, determination shall be based on consideration of factors such as the competition circumstances in the industry in question as well as in related industries.

XII. Interpretation of unjust restriction on participation in a joint lottery and prize competition

Given the provisos stipulated in Section 4 of the Notification, a lottery or prize competition sale cannot be held in accordance with the provisions of Section 4 in the following cases:

- A. Eligibility for participation in the joint lottery or prize competition is determined on the basis of sales volume or the like, or is restricted to, for instance, members of a specific trade association or trading partners of a specific entrepreneur; and
- B. The apportionment of economic costs, the promotional methods used, the distribution of winning tickets or other aspects associated with staging the lottery or prize competition are disadvantageous to certain parties in a way that effectively prevents their participation in the joint lottery or prize competition.