

Outline of the Act against Unjustifiable Premiums and Misleading Representations

Main clauses

Purpose (Section 1)

- This Act, in order to prevent inducement of customers by means of unjustifiable premiums and misleading representations in connection with transactions of a commodity or service, by establishing special provisions for the Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade, aims to secure fair competition, and thereby to protect the interests of consumers in general.

Definitions of “premiums” and “representations” (Section 2)

- “Premiums”: Any economic benefits which are given as means of inducement of customers in connection with a transaction and which are designated by the Fair Trade Commission as such.
 - * Section 1 of the Rules on Designation of Premiums and Representations under the Provisions of Section 2 of the Act against Unjustifiable Premiums and Misleading Representations (JFTC Notification No. 3 of 1962)
- “Representations”: Advertisement or any other descriptions which an entrepreneur makes or uses as means of inducement of customers, with respect to the substance of the commodity or service which he supplies or the terms of sale or any other matter concerning the transaction, and which are designated by the Fair Trade Commission as such.
 - * Section 2 of the Rules on Designation of Premiums and Representations under the Provisions of Section 2 of the Act against Unjustifiable Premiums and Misleading Representations (JFTC Notification No. 3 of 1962)

Restriction or prohibition of premiums (Section 3)

- JFTC may, when it finds it necessary to prevent unjust inducement of customers, restrict any matter relating to the offering of a premium, or may prohibit the offering of a premium.
 - When JFTC issues a notification, it shall hold a public hearing and elicit the opinions of related entrepreneurs and the public (Section 5(1)). Restrictions on or prohibition of premiums shall be made by notification (Section 5 (2)).

Prohibition of misleading representations (Section 4(1))

Misleading representations concerning the substance (i) -- Any representation by which the quality, standard or any other matter relating to the substance of a commodity or service are shown to consumers in general to be much better than the actual one or much better than that of other entrepreneurs who are in competitive relationship with the entrepreneur concerned contrary to the fact and thereby which is found likely to induce customers unjustly and to impede fair competition

Misleading representations concerning the terms of transaction (ii) -- Any representation by which price or any other terms of transaction of a commodity or service will be misunderstood by consumers in general to be much more favorable to the consumer in general than the actual one or than those of other entrepreneurs who are in competitive relationship with the entrepreneur concerned, and thereby which is found likely to induce customers unjustly and to impede fair competition;

Representations designated by JFTC (iii) -- In addition to the above, any representation by which any matter relating to transactions as to a commodity or service is likely to be misunderstood by consumers in general and which is designated by JFTC as such, finding it likely to induce customers unjustly and to

impede fair competition

When JFTC issues a notification, it shall hold a public hearing and elicit the opinions of related entrepreneurs and the public (Section 5(1)). Restrictions or prohibition of premiums shall be made by notification (Section 5(2)).

Restrictions on unproven advertisement (Section 4(2))

- JFTC may, where it finds it necessary in order to evaluate whether any representation constitutes a misleading representation concerning the substance of a commodity or service (Section 4 (1)(i)), designate a period and require the entrepreneur concerned to submit data which show reasonable grounds for the representation he makes. In such cases, if the entrepreneur fails to submit the data, the representation concerned shall be deemed to fall under misleading representation.

Cease and desist order (Section 6)

- JFTC may, in the event there is an act violating the restriction or prohibition under the provisions of Section 3 [restriction or prohibition of premiums] or violating the provisions of Section 4 (1) [prohibition of misleading representations], order the entrepreneur concerned to cease such an act, or to take the measures necessary to prevent the resurgence of the said act. An order prescribed above (cease and desist order) shall be made by serving to such entrepreneur a certified copy of such cease and desist order.
 - * If the initiation of hearing procedures is requested by any person who complains about a cease and desist order, the case shall go through hearing procedures (Section 8)

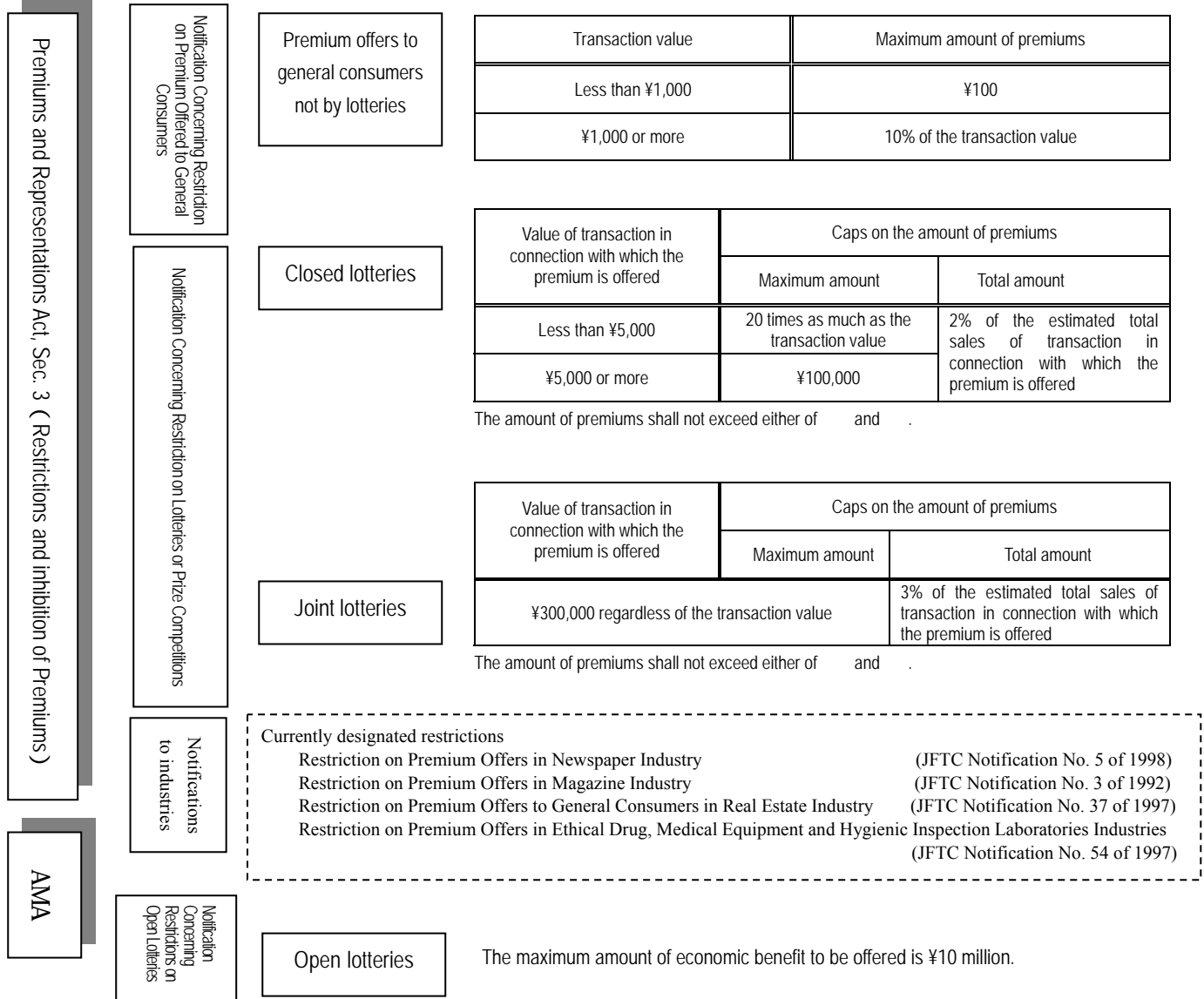
Prefectural governor's instruction right (Section 9-2)

- A prefectural governor may instruct the entrepreneur who violates the restriction or prohibition prescribed in the provisions of Section 3 or the provision of Section 4 (1) to cease and desist such violation, or to take the measures necessary to prevent the resurgence of such violation. Such an instruction may be issued even when the said violation has already ceased to occur.
 - * Rights to request for measures to JFTC in cases where the entrepreneur concerned does not comply with the instruction issued (Section 9-3), to collect reports and inspection (Section 9-4), etc.

Fair Competition Codes (Section 10)

- Entrepreneurs or a trade association may, upon obtaining authorization from JFTC, with respect to the matters relating to premiums or representations, conclude or establish an agreement or a code (fair trade code), aiming at prevention of unjust inducement of customers and maintaining fair competition.
- Requirements of fair competition code designation (Section 10(2))
 - (1) That it is appropriate to prevent unjust inducement of customers and to maintain fair competition;
 - (2) That it is not likely unreasonably to impede the interests of consumers in general or the related entrepreneurs;
 - (3) That it is not unjustly discriminatory; and
 - (4) That it does not restrict unreasonably the participation in or withdrawal from the fair competition code.

Outline of the restrictions on premium offerings



Glossary

- 《Premium offers to general consumers not by lotteries》**
 Premium offers to general consumers without applying the method of lotteries
- Premium offers to all people who bought a certain product
 - Premium offers to all people who visited a retail store
 - Premium offers on a first-come-first-served basis, etc.
- Cases exempt from restrictions on premium offers
- Goods and/or services which are necessary either for the sale or use of a commodity or for the offering of a service
 - Samples and other goods and/or services used for promotional purposes
 - Discount coupons, or other certificates wherein price discount is promised by the offerer usable for transactions of commodities and/or services he supplies
 - Goods to be offered as a token of a shop's opening or anniversary
- 《Closed lotteries》**
 Premium offers in the methods including the following:
- Drawings, rock-scissors-paper, and other methods involving casualness
 - Competition in puzzle, quiz, work, tournament, etc.
- 《Joint lotteries》**
 Collaborative premium offers by entrepreneurs including the following:
- Collaborative premium offers with a considerable number of retailers within a certain region involved.
 - Collaborative premium offers in a shopping mall with a considerable number of stores involved at the summer gift season, year's end season, etc., with limits of not more than three times and 70 days a year.
 - Collaborative premium offers by a considerable number of entrepreneurs of a certain industry within a certain region.
- 《Open lotteries》**
 Premium offers to the participants of prize competitions such as quiz without connection with transactions. (Announcement, application, information on application, etc. independent of transactions)
- Examples with a manufacturer
- It shall be an open lottery if the manufacturer provides application forms for the lottery at partner retailers (in principle)
- It shall not be an open lottery if the manufacturer provides application forms for lottery at the following retailers:
- A retailer participating in the project jointly with the manufacturer
 - A retailer making the manufacturer offer economic benefits
 - A retailer which is more than 50% funded by the manufacturer
 - A franchisee which has made a franchise agreement with the manufacturer
 - A retailer of which most visitors are involved in the transaction of the goods provided by the manufacturer
- 《Transaction value》**
- In cases where a certain level of spending is required: the required amount
 - In cases where no certain level of spending is required: ¥100 (in principle)
 - In cases where spending is not required: ¥100 (in principle)
- 《Estimated total sales》**
 Estimated total sales of the target products during the campaign

Outline of the prohibition of misleading representations

Premiums and Representations Act Sec. 4 (Prohibition of misleading representations)

Prohibition of misleading representations

Sec.4(1)(i) Misleading representation regarding the quality, standard or any other matter relating to the substance of a commodity or service

Representations to show matters relating to the substance of a commodity or service to general consumers to be much better than the actual commodity or service

- Ex. 1. A sweater labeled "100% Cashmere" actually contains only 80% cashmere
- Ex. 2. A used car indicating "35,000 km on the clock" despite the fact that the car has traveled more than 100,000 km
- Ex. 3. A commodity labeled "traditional artifact" which is, in fact, manufactured in China

Representations to show, contrary to the fact, matters relating to the substance of a commodity or service to general consumers to be much better than that of rival entrepreneurs

Ex. Advertisement with a phrase "This new technology is utilized by us alone in Japan" despite the truth that competitive companies utilized the same technology.

Sec. 4(2) JFTC may, where it finds it necessary in order to decide whether any representation fall under representation to show the effect or performance of a commodity or service to consumers in general to be extremely good (suspected violation of Sec. 4(1)(i)), designate a period and require the entrepreneur concerned to submit data which show reasonable grounds for the representation he makes.
If the entrepreneur fails to submit the data, the representation concerned shall be deemed to fall under misleading representation.

Sec. 4(1)(ii) Misleading representations regarding the price or any other terms of transaction of a commodity or

Representations to cause general consumers to misunderstand the terms of transaction to be much more favorable to them than the actual one terms

- Ex. 1. A tour offered with a representation "courtesy discount" although no discount is actually made
- Ex.2. A campaign claiming that 100 winners selected in a drawing will be allowed to sign an agreement, despite the fact that all participants are accepted as winners

Representations to cause general consumers to misunderstand the terms of transaction to be much more favorable to them than that of rival entrepreneurs

Policy on misleading price indications based on the Premiums and Representations Act

(Fair Trade Commission of Japan, 2000)

An example of misleading double pricing

A representation "Market price ¥10,000, our price ¥5,000" or "Half off the market price" when selling a product at ¥5,000 even though the actual market price is about ¥6,000.

(Note) Double pricing is an act by a retailer to indicate an actual price with a comparative price by, for example, indicating the price actually charged by the retailer (actual price) with a higher one.

Sec. 4(1)(iii) Representations by which any matter relating to transactions as to a commodity or service is likely to be misunderstood by consumers in general and which is designated by JFTC as such

Currently designated representations:

- Misleading Representations on Soft Drinks without Juice, etc. (JFTC Notification No. 4 of 1973)
- Misleading Representations on Country of Origin of Goods (JFTC Notification No. 34 of 1973)
- Misleading Representations on Cost of Consumer Credit (JFTC Notification No. 13 of 1980)
- Misleading Representations on Bait Advertising of Real Estate (JFTC Notification No. 14 of 1980)
- Misleading Representations on Bait Advertising (JFTC Notification No. 17 of 1993)
- Misleading Representations on Fee-charging Homes for the Elderly (JFTC Notification No. 3 of 2004)

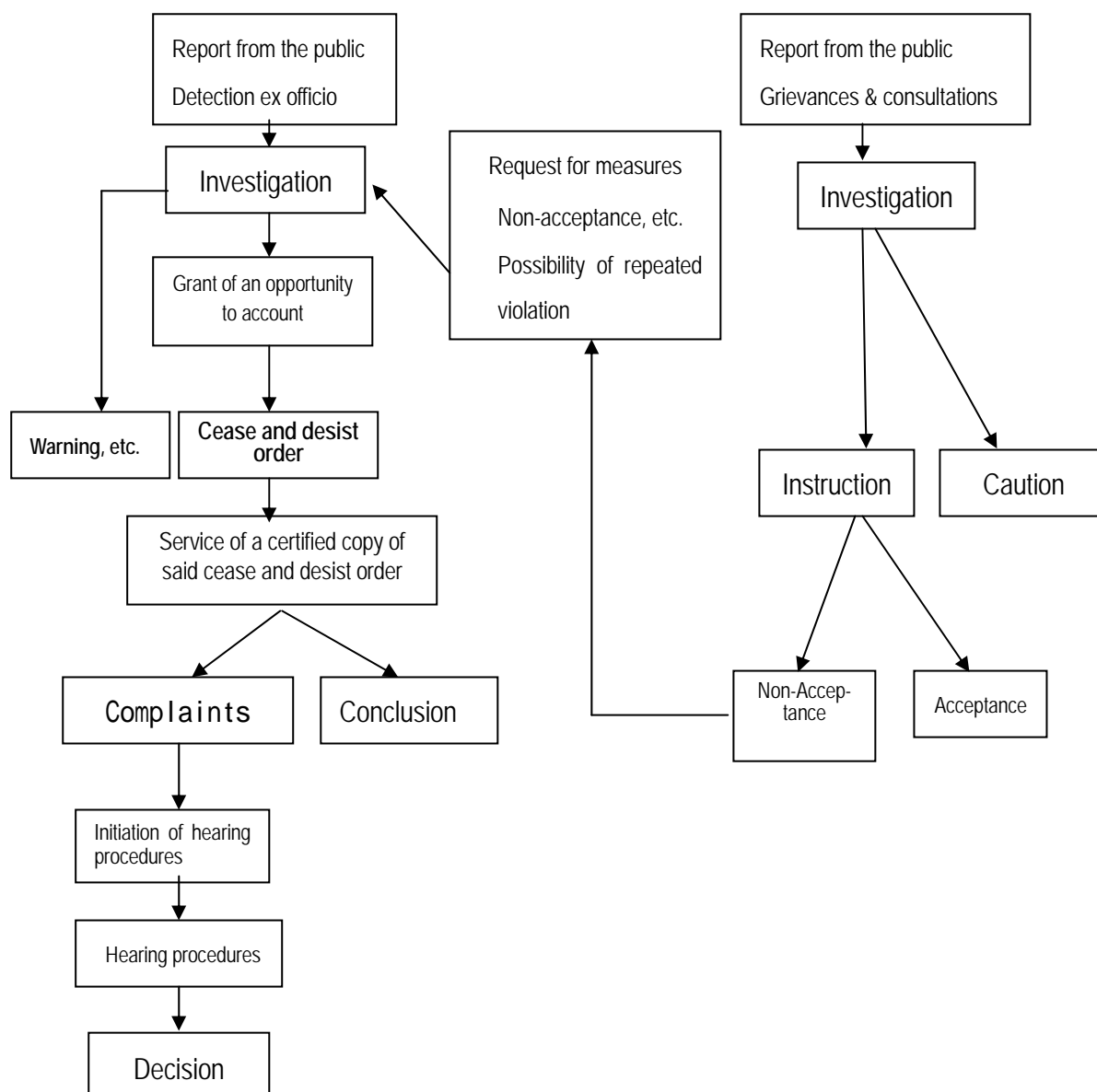
Procedures in dealing with violations of the Premiums and Representations Act

- 1 . JFTC may, in the event there is an act violating the restriction or prohibition under the provisions of Section 3 [restriction or prohibition of premiums] or violating the provisions of Section 4(1) [prohibition of misleading representations], order the entrepreneur concerned to cease such an act, or to take the measures necessary to prevent the resurgence of the said act, or to take any other necessary measures including publicizing the matters relating to the implementation of such measures. (Section 6(1) of the Premiums and Representations Act)
- 2 . Any entrepreneur who failed to comply with the cease and desist order after it has become final and conclusive shall be punished by penal servitude for not more than two years or by a fine of not more than three million yen. (Section 9(1) of the Premiums and Representations Act, Section 90(iii) of the Antimonopoly Act)
- 3 . A prefectural governor may, where he/she finds an act violating the restriction or prohibition prescribed in the provisions of Section 3 or Section 4(1), instruct the entrepreneur concerned to cease and desist such violation, or to publish the matters relating to the implementation of such measures. (Section 9-2 of the Premiums and Representations Act)

Flowchart of the procedures

Fair Trade Commission

Prefectural Government



Application of the premiums and representations act in FY2004, and efforts towards proper consumer transactions (Overview)

May 13, 2005

Fair Trade Commission of Japan

I. Disposition results of Premiums and Representations Act cases

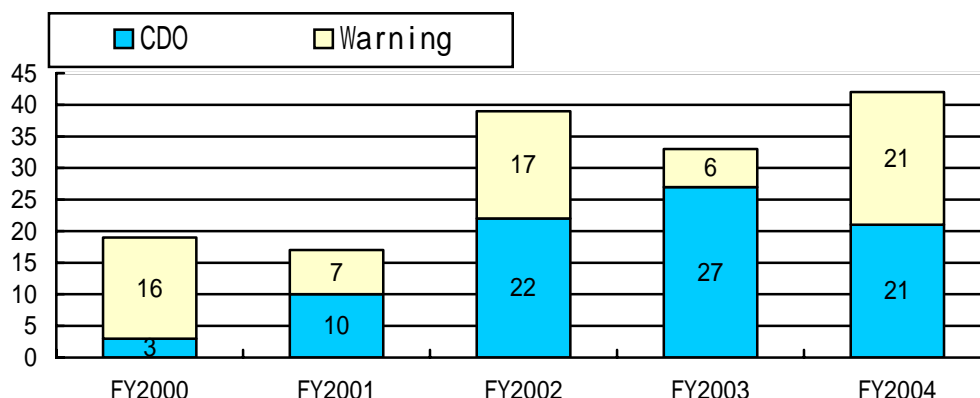
1. Fair Trade Commission of Japan

(1) Number of disposition cases

The number of Premiums and Representations Act cases handled by Fair Trade Commission of Japan (hereinafter, "JFTC") in FY2004 totaled 764, comprising **21 cases resulting in cease and desist orders, 21 cases resulting in warnings**, and 722 caution cases. 113 cases in total (approx.17%) represent the increase over the case load in FY2003. Furthermore, the total number of cases disposed by JFTC, including those made public and those in which cautions were issued, have increased over the last five years. This appears to be as a response to the number of cases brought to the attention of JFTC arising from the growing concern of consumers regarding representations.

Change in the number of cases made public over these five years

CDO: Cease-and-desist orders



(2) Major disposition cases

a. Cease-and-desist orders (CDO)

Breakdown of CDO cases in FY2004 is as follows:

- Cases of misleading representation concerning **diet foods (Premiums and Representation Act, Sec. 4(2). was applied)** 2 cases
- Cases of misleading representation concerning **foods (except for diet foods)** 8 cases
- Cases of misleading representation concerning **fee-charging nursing homes** 1 case
- Cases of misleading representation concerning **country of origin of clothing** 5 cases
- Cases of misleading representation concerning the **number of successful applicants, etc. committed by vocational schools** 4 cases
- Cases of misleading representation concerning **dual price committed by supermarkets** 1 case

Any enquiry addressed to:

Trade Practices Department, Economic Affairs Bureau, General Secretariat, JFTC
 - Consumer-related Trade Division (for enquiries related to Chapter II & III)
 Phone: 03-3581-3375 (direct line)
 - Premiums and Representations Inspection Office (for enquiries related to Chapter I)
 Phone: 03-3581-3377 (direct line)

b. Warning

JFTC has hitherto made public only a proportion of cases for which a warning was issued. After April 2004, however, JFTC makes public every warning case, in principle, in the same way as the cases of cease-and-desist order, in line with securing further transparency/fairness in the disposition of violation cases.

Breakdown of warning cases in FY2004 is as follows:

• Misleading representation relating to the performance of MO drive	1 case
• Misleading representation relating to effectiveness of cooking oil disposition agent to defuse impacts upon environment	5 cases
• Misleading representation relating to the place of origin of cooking salt raw materials	9 cases
• Misleading representation relating to hot spring water	2 cases
• Misleading representation relating to the grade of rice milling	2 cases
• Misleading representation relating to the terms and conditions of foreign currency time deposit	2 cases

2. Prefectural governments

The number of cases in which prefectural governments issued directions under the provisions of the Premiums and Representations Act in FY2004 was 14 cases, the largest number over the past 20 years, next to FY2002.

For reference's sake, for **the problems of false representation of hot-spring water quality** revealed in and after July 2004 in spas nationwide, local prefectural governments and JFTC had worked in close coordination. In consequence, by the end of March, 2005, 18 prefectures took measures such as issuing directions, cautions, etc. and made them public.

II. Formulation of the rules for regularization of consumer transactions by JFTC

1. Designations of "Misleading representations Relating to Fee-charging nursing homes for the elderly, etc." (April 2004)

JFTC has hitherto striven to regularize the representation status involving fee-charging nursing homes for the elderly by, for example, requesting business associations, etc. to cope with regularization of misleading representations, while strictly addressing such representations about fee-charging nursing homes for the elderly. Nevertheless, misleading representation cases have shown no signs of significant decline.

In the circumstances outlined above, JFTC has **designated "Misleading representations Relating to Fee-charging nursing homes for the elderly, etc.** (hereinafter, "Notification Regarding fee-charging nursing homes for the elderly", noticed through official gazette on April 2, 2004, and put into force on October 1, 2004)" under the provisions of Sec.4.(1).(iii). of the Premiums and Representations Act. Additionally JFTC laid down the **"Guidelines for Misleading Representations Relating to Fee-charging nursing homes for the elderly, etc.** (hereinafter, "Guidelines")" on June 16, 2004.

JFTC will also continuously cope with misleading representations about fee-charging nursing home, etc. with strict accuracy.

2 Establishment/amendment of fair competition codes in industries

In the context of increasing complexity of representations about products/services, diversification of consumers needs, etc., JFTC has issued instructions to industries to establish and review fair competition codes for representation regularization and the prevention of offers of excessive premiums.

In FY2004, JFTC certified the codes and revisions as follows:

- Codes for representations about *miso* (soybean paste) (Established on May, 2004)
- Codes for representations and premiums relating to PPSC (Prefectural Public Safety Commission) -certified driving school industries (Established on June, 2004)
- Revisions of the codes for representations about fermented milks, lactic acid bacteria beverages(November, 2004)
- Revisions of the codes for representations about cheeses (November, 2004)
- Revisions of the codes for representations about meats (February, 2005)

In addition, JFTC sent a request for improvement to the All Banks Fair Trade Council (May, 2004)

III. JFTC's other efforts towards regularization of consumer transactions

1 Improvement of information gathering framework, etc.

(1) Adoption of "Proper-consumer-transaction facilitator system"

JFTC established/ the "**Proper-consumer-transaction facilitator system**" in FY2005. JFTC will also continue to promote further regularization of unjust consumer transactions with the collaboration of these facilitators.

The Proper-consumer-transaction facilitators **not exceeding 200 members** are selected from among the existing monitors of the JFTC consumer monitoring system, etc., based on **experience and knowledge pertaining to consumer transaction regularization. The facilitators are then, upon request of JFTC, consigned to cooperate in specific surveys, information collection, promulgation/awareness-raising activities, and public hearings, etc.**

(2) Execution of constant monitoring via e-commerce surveillance system, etc.

JFTC has commenced the operations of the e-commerce surveillance system, through which **80 general consumers were consigned to survey Internet advertising representations as JFTC e-commerce surveyors**, and to report representations, likely to become an issue, to JFTC. Receiving such reports, JFTC then **utilizes them to find evidence of infringement cases under the Premiums and Representations Act and other purposes.**

In FY2004 JFTC received 1,255 reports from e-commerce surveyors via this surveillance system, then sent emails to the administrators of 30 websites considered questionable in the light of the JFTC notification to raise awareness of compliance with the Premiums and Representations Act.

As problems emerging on the Internet are transnational, JFTC is **deepening its cooperation with foreign authorities** by, for example, **participating in the International Internet Sweeps conducted in February 2005** by the International Consumer Protection and Enforcement Network (ICPEN) consisting of consumer protection authorities of OECD members and other countries, by which the authorities of each participating country concurrently check advertisements on the Internet at the same time on the same day for legal violations on a certain theme.

2 Fact-finding survey, etc., relating to consumer transactions

(1) Fact-finding survey on representations about cooking salts (July 2004)

Over recent years, the number of specific cooking salts declaring a method of production, place of origin, mineral/brine, natural/nature, etc. are tending to increase.

Whereas the range of choice of cooking salts for the consumers is thus expanding, many consumers reported obscurity in the representations of such cooking salts to JFTC. To respond to this problem, and to facilitate general consumers in making proper choice of goods , **JFTC executed a fact-finding survey on the representations of cooking salts, then, systematized its policy against such representations being likely to mislead the general consumers (as defined by the Premiums and Representations Act), as well as the policy for representations advisable as proper for information provision. Subsequently, JFTC publicized this policy together with warnings issued to cases of misleading representation involving the place of origin of some cooking salts).**

(2) Fact-finding survey on representations about hen’s eggs (November, 2004)

In recent years consumption of specific hen’s eggs have shown a conspicuous increase under certain brand names (hereinafter, “brand eggs”), in the context of rising health and food-safety consciousness among consumers. In order to point out their superiority, these brand eggs have representations stating nutritional facts, claiming that they are “safe & sanitary”, and providing information about the breeding environment, etc..

Whereas the range of choice of hen’s egg for consumers is thus being extended, JFTC considered that representations about many such brand eggs were obscure for general consumers. Therefore JFTC executed a **fact-finding survey on eggs, then systematized and made public its policy against such representations being likely to mislead general consumers (as defined by the Premiums and Representations Act), as well as the policy for representations advisable as proper for information provision.**

3. Consultation service relating to the Premiums and Representations Act

JFTC provides consultation service for entrepreneurs/companies pertaining to the act of offering /representing specific premiums, in order to prevent violations of the Premiums and Representations Act from occurring.

The number of consultations relating to the Premiums and Representations Act accepted by JFTC in FY2004 accounts for 23,259 cases, showing a tendency to increase over the years. JFTC is striving to raise awareness of the Premiums and Representations Act among entrepreneurs by using advertisements and via the business associations of each industry.

Table Number of general consultations relating to the Premiums and Representations Act accepted in FY2002-4

FY	FY2002	FY2003	FY2004
Number of consultations accepted	17,738	23,122	23,259

**Applications of the Premiums and Representations Act in FY2004 and
Efforts towards Proper Consumer Transactions**

May 13, 2005
Fair Trade Commission of Japan

JFTC is, in line with securement of fair and free competition, strictly and promptly dealing with misleading representations preventing proper choice by consumers and/or acts of offering excessive premiums under the Premiums and Representations Act, while striving for regularization of consumer transactions by executing fact-finding surveys on representations about goods/services in which consumers are highly interested, and by requesting, if necessary, related business associations to address the regularization of representations made within industries.

I. Disposition of the Premiums and Representations Act cases

1 Fair Trade Commission of Japan

(1) Outline

JFTC issues cease-and-desist orders to violators of the Premiums and Representations Act, issues warnings to those involved in potential violations and advises them to take corrective action, and, for purposes of prevention, issues cautions to those involved in acts that will possibly be in violation.

The number of the Premiums and Representations Act cases disposed of by the Fair Trade Commission of Japan (hereinafter, "JFTC") in FY2004 is 764 in total, comprising **21 cease-and-desists order cases, 21 warning cases**, and 722 caution cases. The increase of 113 cases in total (approx. 17%) over FY2003 is due to the increase in the numbers of representation cases(148 cases, an increase of approx. 17% over 2003 numbers). Further, numbers of deposition cases, including those cases made public and for which cautions have been have been on the rise over the past five years.

Table 1 Number of cases disposed

Unit: Case

Case Type	Cease-and-desist order	Warning	Caution	Total
Representation cases	21[27]	21[6]	650[511]	692[544]
Premium cases	0[0]	0[0]	72[107]	72[107]
Total	21[27]	21[6]	722[618]	764[651]

(Note) Numbers in brackets show data for FY2003. As warning cases have become the matter to be made public, in principle, after March, 2004, the number of warning cases in 2003 shows warning cases made public prior to March, 2004, and those after that date are included in the number of cases in which a caution was issued.

Furthermore, the occurrence of new cases is likely to increase, especially since, the amount of information brought into JFTC has significantly increased in the context of the growing concern of consumers about representations.

Table 2 Occurrences of new cases (Unit: Case)

	Reports	Detection by JFTC	Others	Total
FY2000	367	268	50	685
FY2001	340	326	109	775
FY2002	453	290	99	842
FY2003	876	257	147	1,280
FY2004	1098	238	130	1,466

(2) Representation case

All cases entailing cease-and-desist orders and issuance of warnings occurring in FY2004 were representation cases, comprising 42 cases in total.

【Cease-and-desist orders】

- Misleading representation for **diet foods (the Premiums and Representations Act, Sec. 4.(2) applied)** 2 cases
- Misleading representation relating to **foods (except for diet foods)** 8 cases
- Misleading representation relating to **fee-charging nursing homes for the elderly** 1 case
- Misleading representation relating to **country of origin of clothing** 5 cases
- Misleading representation relating to **the number of successful applicants, etc. by vocational schools** 4 cases
- Misleading representation relating to **dual pricing by supermarkets** 1 case

【Warnings】

- Misleading representation relating to the **performance of MO drives** 1 case
- Misleading representation relating to **effectiveness of cooking oil disposal agent** to defuse impacts **upon environment** 5 cases
- Misleading representation relating to the **place of origin of cooking salt raw materials** 9 cases
- Misleading representation relating to **hot spring water** 2 cases
- Misleading representation relating to the **grade of rice milling** 2 cases
- Misleading representation relating to the terms and conditions of **foreign currency time deposits** 2 cases

Other representation cases in which JFTC issued cautions, include price representations relating to contract terms of communication services such as mobile-phones, etc. or those relating to indications of price made by large-scale consumer electronics outlets and retail opticians.

Table 3 Breakdown of representation case Unit: Case

Related provisions	Cease-and-desist order	Warning	Caution	Total
Section 4. (1).1. (overstated quality)	15[18]	19[2]		272[251] – 306[271]
Section 4. (1).2. (Overstated advantage)	1[2]	2[1]	319[234]	322[237]
Section 4. (1).3.	5[9]	0[3]	44[44]	49[56]
Bait and switch advertising	0[0]	0[0]	21[24]	21[24]
False indication of country of origin	5[4]	0[3]	22[19]	27[26]
Non-fruit juice	0[5]	0[0]	1[1]	1 [6]
Total (cumulative)	21[29]	21[6]	635[529]	677[564]

(Note) 1. The total numbers in this table diverge from those in Table 1, reflecting the fact that in some cases more than one provision was concerned.

2. “Section 4” shall be read as “Section 4(1)” as for representations found after the implementation of the Law Amending Part of the Act Against Unjustified Premiums and Misleading Representations (Law No. 45 of 2003) (Hereinafter referred to as the “Amended Law”)

(3) Premium case

In FY2004 premium cases, in which premiums such as expensive household appliances and overseas travel are offered, were conspicuous.

Table 4 Breakdown of premium cases

Unit: Case

Related notification	Cease-and-desist order	Warning	Caution	Total
Notification to restrict premium offers by lottery or competition for prizes	0[0]	0[0]	44[60]	44[60]
Notification to restrict premium offers to general consumers not by lotteries	0[0]	0[0]	31[48]	31[48]
Notification to restrict industry-specific premium offers	0[0]	0[0]	2[2]	2[2]
Total (cumulative)	0[0]	0[0]	77[110]	77[110]

(Note) 1. The total numbers in this table diverge from those in Table 1, reflecting the fact that in some cases more than one provision was concerned.

2. Prefectural governments

As stipulated in the Premiums and Representations Act, **a prefectural governor may, if he or she considers that there exists a violation against the Premiums and Representations Act, issue directions under the Act, Sec. 9.(2), thus cases involving the Premiums and Representations Act are also handled by prefectural governments.**

The number of cases in which prefectural governments issued directions in FY2003-4 is shown in Table 5, below. **In FY2004, there were 14 cases in which directions were issued, a significant increase** over numbers for the preceding fiscal year.

Table 5 Directions issued by prefectural governments

Category	FY2003	FY2004
Number of directions issued by prefectural governments	6 cases	14 cases
	(Shizuoka Pref. -Two cases) (Oita Pref. -Two cases) (Hyogo Pref. -One case) (Saga Pref. -One case)	(Shizuoka Pref. - Three cases) (Kyoto Pref. - Three cases) (Hokkaido - Two cases) (Iwate Pref. - One case) (Miyagi Pref. - One case) (Gumma Pref. - One case) (Gifu Pref. - One case) (Hyogo Pref. - One case) (Kagawa Pref. - One case)

3. Measures taken in the hot-spring representation issue

JFTC executed a fact-finding survey on hot spring representations and consumer attitudes in July 2003, and found problems including that sufficient information was not necessarily provided to consumers. JFTC thus requested spa-related business associations to make known to affiliated members that proper and accurate information on hot springs should be provided more actively in representations of pamphlets, etc., while systematizing the policy related to hot spring representations under the Premiums and Representations Act.

In and after July, 2004, and beginning with the problem regarding mixing of chemicals into the bath at Shirahone Spa, Nagano Pref., **issues of hot-spring-water quality representation** (i.e., many so-called hot-spring spas actually used heated well water or tap water under pretence of being hot-spring water, which do not fall under the definition of hot-spring water

as defined by the Hot Spring Law,), were **exposed one after another** at spas all over Japan. In addressing these issues, JFTC **issued a warning to a public bathhouse in Fukuoka Pref., on August 9, 2004, and to a hot spa lodging facility in Hokkaido on March 2, 2005** respectively, considering that violations against the Premiums and Representations Act would be likely to occur.

Meanwhile, whereas the Premiums and Representations Act is being operated by prefectural governments as well, JFTC has heretofore striven to reinforce its cooperative relationship with the prefectural governments. Accordingly, **one prefecture took such measures against violations/possible violations as issuing directions, cautions, etc., and made them public in FY2003, which was followed by 18 prefectures in FY2004.**

JFTC will continue to take strict measures against misleading representations on hot-spring water quality, while strengthening cooperation with prefectural governments.

II. Formulation of the rules for regularization of consumer transactions by JFTC

1. Designation of "Misleading representations about fee-charging nursing homes, etc." (April 2004)

Generally, fee-charging nursing homes require a large initial expenditure upon signing of contracts. Furthermore it is difficult to foresee and understand details of the range of services at the contracting stage, due to characteristics of such services in that the transaction is for a long term and that the contents of the service would vary in the future depending on the physical and mental conditions of users. Thus, it is believed that the primary importance in the transaction of fee-charging nursing homes for the elderly lies in the assurance of non-misleading representations causing no misunderstanding when general consumers make choices concerning fee-charging nursing homes.

JFTC has hitherto striven to correct the representation conditions related to fee-charging nursing homes for the elderly by, for example, requesting business associations, etc. to address the regularization of misleading representations, while strictly addressing such representations of fee-charging nursing homes for the elderly. Nevertheless, cases of misleading representation have shown no sign of significant decline.

Aiming to regulate unjust consumer transactions of fee-charging nursing homes for the elderly, etc. in the circumstances outlined above, JFTC has **designated "Misleading representations Relating to Fee-charging nursing homes for the elderly, etc."** under the provisions of Sec.4.(1).3. of the Premiums and Representations Act (hereinafter, "Fee-charging nursing homes for the elderly-Related Notification", notice of which was given in the official gazette on April 2, 2004, and enforced on October 1, 2004), in order to define the representations likely to mislead consumers about the details of services provided by fee-charging nursing homes for the elderly, etc., **to prevent occurrences of misleading representations, and to strictly address them**, if such situations occurred.

The Fee-charging nursing homes for the elderly-Related Notification above extensively cites various representations which could be critically informative and helpful for general consumers to choose fee-charging nursing homes for the elderly, etc., including those pertaining to: **(i) land, buildings, living space, and other accommodations/facilities as the fundamental aspects of users' lives; (ii) nursing services; (iii) nursing staff; (iv) expenses to be borne by consumers; etc.**, by examining the cases of violation committed in the past.

Additionally JFTC laid down the "Guidelines for Misleading Representations Relating to Fee-charging nursing homes for the elderly, etc." on June 16, 2004, in order to clarify its basic stance on operations of the Fee-charging nursing homes for the elderly-Related Notification. JFTC will also continue to address misleading representations about fee-charging nursing homes, etc. with strict accuracy.

2. Establishment and revision of fair competition codes

The fair competition codes (targeting 40 premiums and 65 representations, as of the end of FY2004) are voluntary rules of individual industries to be certified by JFTC, in accordance with its requirements that such rules shall: (i) properly prevent deceptive customer inducement and secure fair competition; (ii) be in no danger of unjustly impairing the profits of general consumers and related entrepreneurs; (iii) not be unjustly discriminatory; and, (iv)

not unjustly restrain accession to/secession from the fair competition codes.

To regulate misleading representations and to prevent excessive premium offerings, JFTC has given instructions in establishing and reviewing the fair competition codes, taking into consideration changes in circumstances such as the diversification of representations about products and services, and the diversification of consumer needs.

In FY2004 JFTC newly certified the establishment of a fair competition code on representations in *miso*-soybean paste (May, 2004), and on both representations and premiums in the **driving school industry certified by prefectural public safety commissions** (June, 2004). Subsequently, JFTC certified **the premiums code of the *miso* industry, representation code of the industries of fermented milk, lactic acid bacteria beverages, and cheeses, as well as the revision of the representation code of the meat industry.**

(1) Establishment of representation code for *miso* (May 2004)

For the transaction of packaged *miso* (soybean paste), JFTC certified:

- (i) “Fair competition codes regarding the representations of *miso*” laying down:
 - Required representation items including:
 - Name of raw materials, content, use-by date, storage conditions, etc.;
 - **Representation criteria for specific matters:**
 - Such as “low salt”, “organic”, etc.; and,
 - **Criteria for the use of specific terms:**
 - Such as “fresh, raw”, “natural brewage”, “handmade sauce”, “choicest”, etc.; and,
 - Misleading representations, together with:
- (ii) Revision of the “Fair competition codes regarding restrictions on offering premiums in the *miso* industry”

(2) Establishment of representation/premium code of driving school industry certified by prefectural public safety commissions (hereinafter “PPSCs”) (June 2004).

For the transaction of PPSCs-certified driving schools, JFTC certified:

- (i) “Fair competition codes regarding representations in PPSCs-certified driving school industry” laying down:
 - Required representation items including:
 - Types of target driver’s license of driving lessons, base lesson hour, driving course titles , driving lesson fees, etc.;
 - **The criteria for the use of terms such as PERFECT, SAFETY, ADVANTAGES, etc., and,**
 - Misleading representations, etc., together with:
- (ii) “Fair competition codes regarding restrictions on offering premiums in PPSCs-certified driving school industry” laying down:
 - Limited value of premiums allowable

(3) Revision of representation code of fermented milks and lactic acid bacteria beverages (November 2004)

To facilitate consumers in making a proper choice of goods, JFTC certified/ approved the revision of representation code/enforcement regulations for fermented milks and lactic acid bacteria beverages, setting down that representations such as “**deep fresh raw milk**”, “**raw milk-based**”, etc. shall have an indication clarifying the component ratio of raw milk to the total volume of goods as “**○○ percent raw milk is used**” or “**using more than ○○ percent raw milk**” within the same field of view.

(4) Revision in representation code of cheeses (November 2004)

To facilitate consumers in making a proper choice of goods, JFTC certified/ approved the revision of representation code/enforcement regulations for cheeses, setting down that the component ratio of raw materials shall be explicitly indicated in a prominent position on the containers or packing of natural cheese, processed cheese, and cheese foods, when

indicating such items as: (i) country of origin; (ii) place of origin; (iii) appellations such as “Cheddar”, “Gouda”, “Emmental”, and other equivalent cheeses; and, (iv) that cheeses having a significantly strong flavor including blue cheese, Camembert cheese, etc. are contained.

(5) Revision in representation code of meats (February 2005)

JFTC certified/ approved the revision of representation code/enforcement regulations for meats, setting down that **the scope of representation of “domestic beef” shall extend to crossbreeds between domestic beef cattle other than four purebreeds, and that, for these crossbreeds between domestic beef cattle, the specific name thereof such as “crossbreeds between domestic beef cattle”, “Japanese brown cattle x Japanese black cattle”, “Black x Brown”, etc. shall be indicated**, in addition to the “domestic beef cattle” representation.

(6) Request to All Banks Fair Trade Council (May, 2004)

When it issued a warning to two banking corporations for a case of misleading representation involving the terms and conditions of transactions of foreign currency time deposits, JFTC requested the **All Banks Fair Trade Council** operating the “Fair Competition Code Relating to Representation in the Banking Industry” to convey the points of the warning issued to its member corporations, and to review the Code **in order to prevent the occurrence of violations against the Premiums and Representations Act in order to facilitate consumers in making proper choices of goods.**

III. JFTC’s other efforts towards proper consumer transactions

1 Enhancement of information collection framework, etc.

(1) Adoption of “Proper-consumer-transaction facilitator system”

JFTC in striving to correct consumer transactions through the operation of the Antimonopoly Act and the Premiums and Representations Act, etc. established up the **“Proper-consumer-transaction facilitator system” in FY2005**. JFTC will continue to promote further regularization of unjust consumer transactions with the collaboration of those facilitators.

In this connection, JFTC has broadly collected the opinions of general consumers and information based on their experiences in their everyday lives heretofore via the existing consumer monitor system, and utilized these for the operation of the Antimonopoly Act, the Premiums, Representations Act, and others. From among the monitors participating in this system, **the proper-consumer-transaction facilitators of not exceeding 200 will be selected on the basis of experience and knowledge pertaining to consumer transaction regularization, balance across regions, and ages of the facilitators, etc.** The facilitators are then consigned to cooperate in surveys and information collection relating to specific matters, awareness-raising activities, and public hearings, upon request of JFTC, in addition to other operations executed by JFTC for the regularization of consumer transactions.

(2) Execution of constant monitoring via e-commerce surveillance system, etc.

JFTC has been hitherto conducting intensive and periodic surveillance (“Internet Surf Day”) with regard to advertising representations on the Internet, aiming at the sound development of e-commerce for consumers, which is expanding in the context of the prevalence and progress of rapid Internet connection conditions, as well as the regularization of consumer transactions.

In addition to this, since August 2002 JFTC has commenced operation of the e-commerce surveillance system, through which **80 general consumers have been consigned to survey Internet advertising representations as JFTC e-commerce surveyors**, and to report representations likely to become an issue to JFTC. Receiving such reports, JFTC then **utilizes them to find evidence of infringements of the Premiums and Representations Act, and to send awareness-raising emails to seek compliance with the said Act, etc.**

In FY2004 JFTC received 1,255 reports from the e-commerce surveyors via this surveillance system, then sent emails to the administrators of 30 websites considered

questionable to raise awareness of the compliance with the Premiums and Representations Act in the light of the JFTC notification, “Problems and Points to Note in Relation to the Premiums and Representations Act Concerning Representations in Electronic Commercial Transactions for Consumers (formulated in June 2003, partially amended in August, 2004)”.

Because problems emerging on the Internet are transnational, JFTC is **deepening its cooperation with foreign authorities** by, for example, participating in the International Internet Sweeps conducted by the International Consumer Protection and Enforcement Network (ICPEN) consisting of the consumer protection authorities of OECD members and other countries, by which the authorities of each participating country concurrently check advertisements on the Internet at the same time on the same day for legal violations on a certain theme. **For FY2004, JFTC participated in the International Internet Sweep executed in February 2005.**

2. Fact-finding surveys, etc., relating to consumer transactions

(1) Fact-finding survey relating to cooking salt (July 2004)

Nowadays various types of cooking salts are sold on the market, in the wake of the abolition of the salt monopoly (April 1997), repeal of regulations on the import, export, and circulation of salt, etc. Despite the decreasing tendency of domestic cooking salt consumption in recent years, some specific cooking salts are increasingly tending to detail production method, place of origin, mineral/brine, natural/nature, etc..

Whereas the range of choice of cooking salts is thus being extended, many consumers reported obscurity of representations of such cooking salts to JFTC. To respond to this problem, and to facilitate general consumers in making proper choice of goods, **JFTC executed a fact-finding survey on the representations of cooking salts, then, systematized and made public its policy against such representations being likely to mislead general consumers (as defined by the Premiums and Representations Act), as well as the policy for representations advisable for proper information provision together with warnings issued to cases of misleading representation involving the place of origin of some cooking salts (July 21, 2004).**

JFTC will also continue to surveil representations about cooking salts, and will strictly handle cases violating the Premiums and Representations Act, if any. On the other hand, JFTC will actively support voluntary efforts toward regularization of representations made by a corresponding industry, including the provision of necessary information.

(2) Fact-finding survey relating to hen's eggs (November 2004)

In recent years specific hen's eggs have shown a conspicuous consumption increase under certain brand names (hereinafter, “brand eggs”), in the context of health and food-safety consciousness of consumers. In order to point out their superiority, these brand eggs have representations stating nutritional facts, claiming that they are “safe & sanitary”, and providing information about breeding environment, etc.

Whereas the range of choice of hen's egg for consumers is thus being extended, JFTC considered that representations for many such brand eggs were obscure for general consumers. Therefore, to facilitate the ability of general consumers in making proper choices about brand eggs, **JFTC executed a fact-finding survey on such eggs, then, systematized and made public its policy against such representations being likely to mislead the general consumers (as defined by the Premiums and Representations Act), as well as the policy for representations advisable for proper information provision.**

Further, in order to increase the effectiveness of efforts to regularize representations currently being made by the egg industry itself, **JFTC requested the Central Egg Standards and Transaction Council** comprising the business associations of hen egg producers and distributors **to establish a fair competition code and other rules** based on the JFTC policy under the Premiums and Representations Act.

JFTC will continue to actively support voluntary efforts of the egg industry by providing necessary information, and in other ways. On the other hand, JFTC will strictly handle cases in which representations for brand eggs are likely to mislead consumers.

3 Consultation service pertaining to the Premiums and Representations Act

JFTC **provides consultation services for entrepreneurs** pertaining to specific acts of offering /representing premiums, **in order to prevent the violations of the Premiums and Representations Act from occurring.**

In FY2004, JFTC accepted 23,259 cases pertaining to the Premiums and Representations Act for **consultation** , which demonstrates an increasing tendency in recent years. Major consultations are composed of those relating to the **representations for services provided by fee-charging nursing homes for the elderly, representations for foodstuffs**, and to the **limit of premiums to be offered.**

JFTC strives to **raise awareness of the Premiums and Representations Act** among entrepreneurs by using advertisements or via the business associations of each industry.

Table 6 Number of general consultations pertaining to Premiums and Representations Act in the past three years

FY	FY2002	FY2003	FY2004
Number of consultations accepted	17,738	23,122	23,259

4 Strengthening of ties with relevant administrative organizations, etc.

JFTC **periodically exchange opinions** on consumer affairs with **the Quality-of-Life Policy Bureau of the Cabinet Office** for purposes of collecting information concerning consumer transaction issues, etc.

Additionally, to ensure cooperation with the **National Consumer Affairs Center of Japan (NCAC)**, JFTC **periodically exchanges opinions** with it pertaining to consumer transaction issues and the complaints the NCAC received from consumers. JFTC also **deposes cases, in association with the NCAC's activities of quality/performance testing and inspection of goods.** Furthermore, JFTC **enhances its cooperative relationship with prefectural governments** by, for instance, providing support for their efforts on the Premiums and Representations Act.

Cease-and-desist order cases in FY2004

1. Misleading representation cases involving diet foods (Premiums and Representations Act, Sec. 4.(2). applied)

* CDO: Cease-and-desist order

No	Case name	Case outlines	Violated clauses
1	2004 (CDO) No.11 (7.2.04) Ideal Pharmaceutical Co., Ltd.	<p>In marketing its tablet type supplement named "S-Style ACTIVE" and capsule type supplement named "S-Style SLEEP" to general consumers, Ideal Pharmaceutical suggested in newspaper fliers distributed through newspaper delivery agents nationwide during the period from November 25 to December 17, 2003 that such supplements increase the functioning of the metabolism and burn accumulated fat, under a broad representational " A busy person like me can't waste even a sec. So, I am dieting 24 hours a day", followed by the representations indicating that:</p> <p>(i) The slimming effect is easily achieved, stating, "I've got an ideal figure without changing my lifestyle!", or "I could easily diet even while being soft on myself!";</p> <p>(ii) Survey results show that most users of the supplements in question could achieve a slimming effect, stating, "93 percent of customers enjoy using the supplements and realize that they slimmed down without changing their lifestyle!"; etc.;</p> <p>(iii) The slimming effect has been proved in clinical trials, etc., stating "S-Style has been successfully proven effective both domestically and abroad by credible research institutes we sponsored through the steps from animal experiments to human clinical trials;</p> <p>(iv) The supplements in question are effective in increasing the functioning of the metabolism and in burning accumulated fat, claiming, "Corosolic acid prevents fat from forming", "The metabolic rate is increased by the S-Style SLEEP, burning fat", etc.</p> <p>However, although JFTC requested Ideal Pharmaceutical Co., Ltd. to submit data and materials proving reasonable grounds for the representations described above, Ideal Pharmaceutical failed to submit the data and materials within the given time limit. Although submitted after the time limit, the data and materials were not considered to provide reasonable grounds for the representations in question.</p>	Sec. 4.(1).(i). (Sec. 4.2 applied)
2	2004 (CDO) No. 16 (7.30.04) Nevios Co., Ltd.	<p>In marketing its granule-type supplements named "WeightDown" under the brand name "Feminine" to general consumers, Nevios Co., Ltd. made representations in newspaper fliers it distributed through newspaper delivery agents nationwide during the period from November 25, 2003 to February 16 2004 suggesting that a significant slimming effect can be easily achieved, or that the takers of the supplement in question actually experienced a significant slimming effect, by expressing:</p> <p>(i) "No matter how much you eat, you can slim! Safely slim!", "Caloric intake is cut more than 90 percent!", etc.; or,</p> <p>(ii) "Great success in drastic dieting within only a month!", "I've slimmed, even though I've been eating as much of my favorite foods as I want!", etc.</p> <p>Whereas JFTC requested Nevios Co., Ltd. to submit data and materials proving reasonable grounds for the representations described above, the data and materials submitted were not considered to provide reasonable grounds for the representations in question.</p>	Sec. 4.(1).(i). (Sec. 4.(2). applied)

2. Misleading representation cases relating foods (except for diet foods)

No	Case name	Case outlines	Violated clauses
3	2004 (CDO) No.8 (6.30.04) Sogo Co., Ltd.	In selling crabs, processing seafood, to general consumers at a directly operated retail store located within its Hiroshima store around April 2004, Sogo, Co., Ltd. made representations in newspaper fliers prepared by the Hiroshima store that: "Okhotsk Red King Crabs (frozen) boiled on shore, limited to 200 crabs (approx. 700g per crab) --- ¥1,001 (tax included)", suggesting that such crabs were red king crabs. However, they were, in fact, Blue Kind Crabs.	Sec. 4.(1).(i).
4	2004 (CDO) No.9 (16.6.30) Cowboy Co., Ltd.	In selling crabs, processing seafood, to general consumers at a directly operated retail store around December 2003, Cowboy Co., Ltd. made representations in newspaper fliers that: "Boiled Red King Crabs from Russia. 1,780 yen per crab", suggesting that such crabs were red king crabs. However, they were actually Blue Kind Crabs.	Sec. 4.(1).(i).
5	2004 (CDO) No.10 (16.6.30) Seino Craft Co., Ltd.	In selling crabs, processing seafood, to general consumers at its directly operated retail store around December 2003, Seino Craft Co., Ltd. stuck a price tag on a showcase stating, "Red King Crab, Boiled, 700g, ¥2,800", suggesting that such crabs were Red King Crabs. However, they were actually Blue Kind Crabs.	Sec. 4.(1).(i).
6	2004 (CDO) No. 12 (16.7.13) Belluna Co., Ltd.	In marketing a retort pouch curry named " <i>Karei-naru-Tabi</i> " (literally "Gorgeous Journey"; an equivoque between "Curry" and "Karei") to general consumers, Belluna Co., Ltd. made representations in an advertisement it inserted into: (i) a mail-order catalog during the period from around January 2003 to around February 2004 that the local specialty foods of a specific region will be used as the major ingredients of a curry to be delivered in January, March, June, and December. However, such specialty foods were not actually used; (ii) its website during the period from around June 2001 to around February 2004 that the recipe including the selection of ingredients, blending of spices, etc. for its retort pouch curry was created by a famous cook trained at a renowned restaurant and who appeared on a TV program. In fact, however, the recipe used was not actually created by this cook.	Sec. 4.(1).(i). (Sec. 4.(1).to any act committed prior to the enforcement of the amended Act.)
7	2004 (CDO) No.13 (7.13.04) Cecile Co., Ltd.	In marketing a retort pouch curry named "Pilgrimage to Curries throughout Japan" to general consumers during the period from around March to around December 2003, Cecile Co., Ltd. made representations in an advertisement it inserted into a mail-order catalog that the local specialty foods of a specific region shown in the advertisement would be used as the major ingredients of a curry to be delivered in January, March, May, June, November, and December. In fact, however, only some of the specialty foods represented in the advertisement were used.	Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act.)

No	Case name	Case outlines	Violated clauses
8	2004 (CDO) No.14 (7.29.04) Asahi Food & Healthcare, Ltd	<p>In marketing its tablet type supplement named "ActioAcerola C" mainly comprising vitamin C to general consumers during the period from around October 2001 to April 2004, Asahi Food & Healthcare Co, Ltd made representations, for example, on the package box (bottle type containing 60 grain) of "ActioAcerola C" that:</p> <ul style="list-style-type: none"> (i) "Natural Vitamin C Deriving from Acerola" on the front of the box thereof together with an illustration of acerola fruit; (ii) Effect that three grains of Acerola C contain 200 mg vitamin C, and that "800 mg Acerola fruit extracts (200 mg vitamin C contained)" on the right-hand side surface of the package; and, (iii) "Acerola fruit extracts" as raw materials on the left-hand side surface of the package. <p>In fact, however, most of the vitamin C contained was not actually from the extract of acerola fruit.</p>	<p>Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act)</p>
9	2004 (CDO) No.15 (7.29.04) Segami Medics Co., Ltd. and Asahi Food & Healthcare, Ltd	<p>In marketing its tablet type supplement named "ActioAcerola C" mainly comprising vitamin C to general consumers during the period from around November 2003 to April 2004, Segami Medics Co., Ltd. and Asahi Food & Healthcare, Ltd. made representations on the packaging of "ActioAcerola C":</p> <ul style="list-style-type: none"> (i) Such as "Acerola Vitamin C" in a large size with an illustration of acerola fruit shown on the front surface of the bag, while stating "<Major components/blending amount within three grains> Natural vitamin C: 200 mg"; and, (ii) To the effect that three grains of Acerola Vitamin C contain 200 mg Vitamin C, as well as "800 mg Acerola fruit extracts (200 mg vitamin C contained)". <p>In fact, however, most of the vitamin C contained was not actually from the extract of acerola fruit.</p>	<p>Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act)</p>
10	2004 (CDO) No.17 (10.4.04) Takachiho Corporation and Sapporo Gourmet Foods Co., Ltd.	<p>In marketing a food named "Cherry Gummy Candy", Takachiho Corporation and Sapporo Gourmet Foods Co., Ltd. jointly made representations such as " Gummy candy using 100 percent Yamagata Prefecture's specialty cherry juice " on the front, back, top and bottom surfaces of a packaging box during the period from around February 2003 to around May 2004 at the latest, while representing "Satonishiki-species (Prunus avium) cherry juice is used" on the front and rear surfaces together with a photo of cherry. Although the two companies thus suggested that the Cherry Gummy Candy uses 100 percent cherry juice as a raw material, they actually used only apple juice. Cherry juice was not used at all.</p>	<p>Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act)</p>

3 Misleading representation cases relating to fee-charging nursing homes for the elderly

No	Case name	Case outlines	Violated clauses
11	2004 (CDO) No. 18 (10.18.04) Crystal Nursing and Care Facility Co., Ltd.	Crystal Nursing Home Center Co., Ltd. made representations for nursing services provided to the tenants of "CareFirst <i>Hikone</i> ", a fee-charging nursing home it operates, in pamphlets it delivered to tenant applicants during the period from, at the latest, around February 2003 to around May 2004, and on the Internet website it operates during the period from, at the latest, around November 2002 to around June 2004 as if: (i) The staff of the CareFirst <i>Hikone</i> render care for taking meals and for bed bath to a tenant, if he or she is admitted to the hospital; (ii) At CareFirst <i>Hikone</i> , nursing care is available even in the nighttime (24-hours per day); and, (iii) Periodical health checks on the tenants are executed as one measure of the health-care management system. In fact, all of these representations were untrue.	Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act)

4. Country of origin misleading representation cases

	Case name	Case outlines	Violated clauses
12	2004 (CDO) No.19 (16.11.24) Yagi Tsusho, Ltd and Beams Co., Ltd.	In marketing pants of GTA Moda at retail stores named "Beams shop" to general consumers during the period from around February 2000 to around July 2004, Yagi Tsusho, Ltd. and Beams Co., Ltd. indicated "Made in Italy" on descriptive-labeling tags and hang tags of those pants. In fact, however, despite such indication of the country of origin, the products were actually those sewn in Rumania, and were not considered to be "Made in Italy". Initiation of hearing against Beams Co., Ltd has been decided (January 27, 2005).	Sec. 4.(1).(iii) (Sec. 4.(3). to any act committed prior to the enforcement of the amended Act)
13	2004 (CDO) No. 20 (11.24.04) Yagi Tsusho, Ltd and Tomorrowland Co., Ltd.	In marketing pants of GTA Moda at retail stores of Tomorrowland Co., Ltd. to general consumers during the period from around February 2000 to around July 2004, Yagi Tsusho, Ltd. and Tomorrowland Co., Ltd. indicated "Made in Italy" on descriptive-labeling tags and hang tags. In fact, however, despite such indication of the country of origin, the products were actually those sewn in Rumania, and were not considered "Made in Italy". Initiation of hearing against Tomorrowland Co., Ltd. has been decided (January 27, 2005).	Sec. 4.(1).(iii) (Sec. 4.(3). to any act committed prior to the enforcement of the amended Act)
14	2004 (CDO) No. 21 (11.24.04) Yagi Tsusho, Ltd and BAYCREW*S Co.,Ltd.	In marketing pants of GTA Moda at retail stores of BAYCREW*S Co.,Ltd. to general consumers during the period from around February 2000 to around July 2004, Yagi Tsusho, Ltd. and BAYCREW*S Co.,Ltd. indicated "Made in Italy" on descriptive-labeling tags and hang tags. In fact, however, despite such indication of the country of origin, the products were actually those sewn in Rumania, and were not considered "Made in Italy". Initiation of hearing against BAYCREW*S Co.,Ltd. has been decided (January 27, 2005).	Sec. 4.(1).(iii) (Sec. 4.(3). to any act committed prior to the enforcement of the amended Act)

	Case name	Case outlines	Violated clauses
15	2004 (CDO) No. 22 (11.24.04) Yagi Tsusho, Ltd and World Co., Ltd.	In marketing pants of GTA Moda at retail stores of World Co., Ltd. to general consumers during the period from around February 2000 to around July 2004, Yagi Tsusho, Ltd. and World Co., Ltd. indicated "Made in Italy" on descriptive-labeling tags and hang tags. In fact, however, despite such indication of the country of origin, the products were actually those sewn in Rumania, and were not considered "Made in Italy". Initiation of hearing against World Co., Ltd. has been decided (January 27, 2005).	Sec. 4.(1).(iii) (Sec. 4.(3). to any act committed prior to the enforcement of the amended Act)
16	2004 (CDO) No. 23 (11.24.04) Yagi Tsusho, Ltd and United Arrows, Ltd.	In marketing pants of GTA Moda at retail stores of United Arrows, Ltd. to general consumers during the period from around February 2000 to around July 2004, Yagi Tsusho, Ltd. and United Arrows, Ltd. indicated "Made in Italy" on descriptive-labeling tags and hang tags. In fact, however, despite such indication of the country of origin, the products were actually those sewn in Rumania, and were not considered "Made in Italy". Initiation of hearing against United Arrows, Ltd. has been decided (January 27, 2005).	Sec. 4.(1).(iii) (Sec. 4.(3). to any act committed prior to the enforcement of the amended Act)

5. Misleading representation cases relating to the number of successful applicants, etc. by vocational schools

No.	Case name	Case outlines	Violated clauses
17	2005 (CDO) No. 1 (12.10.05) TOKYO LEGAL MIND K.K.	In recruiting participants in the bar exam course, represented in pamphlets delivered to course applicants during the period from around December 2003 to around December 2004, and on the Internet website it operated around, at the latest, March to to August 2004 that: (i) the 1,099 bar successful applicants (94 percent of the total passers (1,170) of the FY2003 bar exam); and, (ii) the 10,991 bar examsuccessful applicants (91 percent of the total passers (12,059) over 15 years from FY1989 to FY2003) are the ex-participants in the bar exam course provided by TOKYO LEGAL MIND K.K. In fact, however, the results of bar exam success applicants as calculated by TOKYO LEGAL MIND K.K. after, at the latest, FY2000, included, other than those who actually participated in the course, such personsas those who only (i) used the pickup bus service to and or from the oral exam site; (ii) received related materials such as answers of an essay exam they took; and, (iii) received application forms for the bar exam from by TOKYO LEGAL MIND, .	Sec. 4.(1).(i).

No.	Case name	Case outlines	Violated clauses
18	2005 (CDO) No. 2 (2.25.05) Ishikawa Academy, incorporated school	<p>In recruiting participants for the public-officer employment examination course provided by Daiiku Public Officer Vocational School, one of its affiliated schools, Ishikawa Academy, an incorporated school, made representations in an advertisement it inserted into the Okinawa Times dated March 17, 2004, and other media, suggesting that 88 percent of participants in the said course of Daiiku Public Officer Vocational School passed the preliminary round of the public-officer employment examination in 2003, and, further, that all the 51 participants, whose names were listed on the aforementioned advertisement took Daiiku's course and passed the exam.</p> <p>However, in fact: (i) only about one third of the total participants in the course passed the preliminary round of the public-officer employment examination, proving as untrue that 88 percent of total participants successfully passed the exam; and, (ii) of the 51 persons whose names were listed on the advertisement, nine persons cannot be regarded as those who passed the preliminary round due to participation in Daiiku's course, proving as untrue the claim that those 51 persons could pass the exam due to their participation.</p>	Sec. 4.(1).(i).
19	2005 (CDO) No. 3 (2.25.05) Fuji Academy, Incorporated school	<p>In recruiting the participants in the public-officer employment examination course provided by IT College Okinawa, its affiliated school Fuji Academy, an incorporated school, made representations in an advertisement it inserted into the Okinawa Times dated February 19, 2004, and other media suggesting that 2,651 participants in the said course of IT College Okinawa passed the said exam. In fact, however, there was no successful applicants among such participants.</p>	Sec. 4.(1).(i).
20	2005 (CDO) No. 4 (2.25.05) Sunrise Academy, Co., Ltd.	<p>In recruiting the participants in the public-officer employment examination course, Sunrise Academy, Co., Ltd., an incorporated school, made representations in an advertisement it inserted into the Okinawa Times dated December 2, 2003, suggesting that 146 participants in the said course of Sunrise Academy passed the aforementioned exam, and, further, that 94 percent of the total participants passed the exam. However, in fact: (i) the successful applicants of the first round of the public-officer employment examination participating in the Sunrise course totalled 97; (ii) the successful applicants of the final round participating in the Sunrise course totalled 114 (even if those who participated in the aforesaid course after passing the first round are included), proving as untrue the claim that 146 participants passed the exam due to their participation in the aforesaid course; and, further, that, (iii) the exam pass rate of 94 percent was a fictional number.</p>	Sec. 4.(1).(i).

6 Other misleading representation cases

No	Case name	Case outlines	Violated clauses
21	2004 (CDO) No. 7 (4.13.04) Marukyu Co., Ltd.	<p>Marukyu Co., Ltd., a supermarket chain operating under the two trade names of its stores (Marukyu and Aruk), carried out a special sale during the period from November 25 to 28, 2003. On the 25th of the same month in the newspaper fliers it delivered for the special sale, it represented comparative/reference prices significantly higher than ordinary selling prices using the term “Weekday prices” as follows:</p> <p>(i) For sales at 33 stores (excepting Marukyu Yuu Store) among its 34 Marukyu stores, it indicated the prices of seven processed foods and 12 daily necessities as “♥ marked prices mean weekday prices”. Then, for example, it represented that “At the selling floor of [All at ¥97-uniform price], Ikari worcester sauce (500 ml, ♥ ¥278) is available at ¥97, but is limited to one bottle per customer”. Likewise,</p> <p>(ii) For the sales at 16 Aruk stores and Marukyu Yuu Store, it indicated the prices of seven processed foods and two daily necessities as “♥ marked prices mean weekday prices”. Then, for example, it represented that “CornSoft (fat spread)” of Meiji Milk Products (♥ 450g, ¥268) is available at ¥125”.</p> <p>Marukyu indicated these “weekday prices” along with actual selling prices as comparative/reference prices. In fact, however, such “weekday prices” were prices at which no corresponding goods had ever been sold at the 34 Marukyu stores and 16 Aruk stores. Marukyu used these prices to give the impression that actual selling prices were significantly lower.</p>	Sec. 4.(1).(ii)

Cases in which warnings were issued in FY2004

1 Sec. 4.(1).(i). cases (Overstated quality)

No	Case outlines	Related clauses
1	<p>【Misleading representation of performance of MO drive】 For the package representations of its magneto-optical recording equipment (MO drive) named "MO-CH 640U2", Buffalo, Inc. described that "MO, ultra high-speed, five-times faster, compatible with USB2.0", and that"* Five-times means the value of reading and transferring data compared with the case of USB1.1 connection", suggesting that the said MO using the USB2.0 connection constantly allows the reading of stored data five-times faster than that in case of USB1.1 connection". In fact, however, such speeds were available only for data stored under extremely limited conditions, and that the reading speed of five-times faster was not always available. (April 8, 2004)</p>	Sec. 4.(1).(i).
2	<p>【Misleading representation relating to effectiveness of cooking oil disposal agent to defuse impacts upon the environment】 Five companies including Ueki Co., Ltd., N & S Co., Ltd., Nisshin Medico Co., Ltd., Toho Tech Co., Ltd., and Top Eye Co., Ltd. made the representations for, what is called, "Used cooking-oil disposal agent flushable into drains after being mixed" on the container of the product in question, in leaflets, and on an Internet advertisement. They suggested that the use of the product in question significantly minimizes the impacts of cooking oil upon the environment by representing: (i) "Flushable into sink drain only by mixing it!!" in large size typeface together with photos showing that the product in question is added o a frying pan containing cooking oil, mixed with water or hot water, and then directly drained from the pan; and, (ii) "You can directly drain oil into a sink pipe (nature-friendly, no impact upon the environment) ", etc. as the caption of the photos above. The companies thus suggested that the use of the product in question significantly reduces the impact of cooking oil upon the environment. In fact, however, this product was found incapable of reducing environmental load in terms of the organic pollution of water. (April 21, 2004)</p>	Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act.)
3	<p>【Misleading representation relating to the place of origin of cooking salt raw materials】 Nine incorporations including <i>Aoi-Umi</i>, <i>Ako-Aranami-Salt</i>, <i>Kaiyo-Soken</i>, <i>Kanesho</i>, Coral Biotech, <i>Shinryo</i>, <i>Hakata-Engyo</i>, <i>Yonemerce</i>, and <i>Roast Beef-Kamakurayama-Foods</i> made representations about a cooking salt they dealt with, that it was "Natural sea salt of Okinawa", "Okinawa's specialty sea salt", etc., suggesting that the salt in question was produced from seawater collected in Okinawa. In fact, however, the salt was a foreign-made bay salt reprocessed by dissolution into seawater collected in Okinawa or other places. (July 21, 2004)</p>	Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act.)
4	<p>【Misleading representation relating to the details of public bathhouse】 <i>Tennen-no-Onsen Mura</i> (literally, Natural Spa Village) Co., Ltd. made representations about a public bathhouse it operates in Fukuoka Prefecture on signboards installed around, on bulletin boards within, and in fliers delivered within its bathhouse that it is a "Natural spa village", "Natural hot spring", "Characteristics of hot spring water: simple sulfur spring", etc., suggesting that the bathhouse in question uses hot-spring water for its baths. In fact, however, the hot water used thereat was just heated well water. (August 9, 2004)</p>	Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act.)

No	Case outlines	Related clauses
5	<p>【Misleading representation relating to the quality of rice milling】 <i>Yamada Keiran Co., Ltd.</i> made representations about its refined rice named “Electronic Rice” on the rice bag thereof that: “1. Electrons (ions) charged, 2. Pesticides and other chemicals defused, 3. Safe and tasty rice”, and “Pesticides and other chemicals contained in rice can be defused by charging rice with electrons (ions)”, etc., together with a figure to that effect. Further, <i>Kome-no-Nodaya Co., Ltd.</i>, a rice shop, made representation about its refined rice named “Ion-charged Healthy Rice” on the rice bag thereof that, “Safe and healthy rice to you!”, “Rice charged with plentiful minus ions to be more tasty, safe and healthy”, “It’s safe! Residual pesticides are defused by ions”, etc. Both companies thus suggested that residual pesticides and other chemical substances are removed from the refined rice distributed by them by charging with electrons or minus ions. In fact, however, it is not acknowledged that charging with electrons or minus ions removes such chemical residues.</p> <p style="text-align: right;">(November 19, 2004)</p>	<p>Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act.)</p>
6	<p>【Misleading representations relating to hot spa lodging facilities】 <i>Mizuno-moto Co., Ltd.</i> operates an inn named “<i>Futamata Radium Spa</i>”. It publicized via advertisements on giveaway packets of tissue paper, delivered to general consumers hot spa lodging facilities belonging to the inn above, by using the services provided by an entrepreneur who engages in consumer loans of,. On those packets of tissue paper, <i>Mizuno-moto</i> represented that “Hernias are 100 percent cured”, while citing a “comment of a customer who experienced a powerful curing effect” such as “I could barely walk due to my disk herniation. Now, I am getting better thanks to the hot spring cure. Even going up and down the stairs no longer causes me much trouble. I can get a good night’s sleep (Male, 58, Okayama Pref.)”. In fact, however, it is not acknowledged that hernias can be 100 percent cured by the hot spring cure. In addition, the “actual experience” mentioned above was an extreme overstatement of a comment on disk herniation made by a user who stayed at the lodging facilities.</p> <p style="text-align: right;">(March 2, 2005)</p>	<p>Sec. 4.(1).(i). (Sec. 4.(1). to any act committed prior to the enforcement of the amended Act.)</p>

2. Sec. 4.(1).(ii) Cases (Overstated advantage)

No	Case outlines	Related clauses
7	<p>【Misleading representation relating to the terms and conditions of foreign currency time deposit】 <i>Citibank, NA</i>, made representations for its foreign currency time deposits on Australian dollar basis named “Monthly Smile” in newspaper ads and other media that “Deposit amount of ten million yen”, “Monthly interest received will be approx. ¥29,800; Yearly interest received will be approx. ¥352,400 in total”, on the assumption that the deposit amount is ten million yen, and that there is no occurrence of foreign exchange fluctuations. Meanwhile, <i>Shinsei Bank, Ltd.</i> made representations for its foreign currency time deposit named “Power Support, the pocket money type time deposit” in newspaper ads and other media that “< Interest received after tax when ten million yen is deposited> About ¥33,000 per month for your pocket money About ¥389,000 per year for your pocket money”. In fact, however, the real interest amount depositors actually receive is lower than the represented amount even if there is no occurrence of foreign exchange fluctuations, because the both banks have a system to charge fees when money is deposited and withdrawn.</p> <p style="text-align: right;">(May 28, 2004)</p>	<p>Sec. 4.(1).(ii) (Sec. 4.(2). to any act committed prior to the enforcement of the amended Act)</p>

Outlines of regulations under the Premiums and Representations Act

< Representation >

Overstated quality (Sec. 4(1)(i))	Misleading representation relating to the quality, standards or other matters of commodities/services
	Regulations on unproven advertisements (Sec. 4.(2).) JFTC may, in order to determine whether the representation falls under “overstated quality”, request an entrepreneur to submit data which shows reasonable grounds for the representation made. If the entrepreneur fails to submit such data, the representation in question shall be deemed to be a misleading representation.
Overstated advantage (Sec.4.(1).(ii))	Misleading representations regarding the price or any other terms of transaction of commodity/service
Representations likely to be misunderstood by consumers (Sec.4.(1).(iii))	Representations designated by JFTC, and likely to be misunderstood by consumers in relation to transactions of goods/services Misleading representations about bait-and-switch advertising Misleading representations about soft drinks of non-fruit juice, etc. Misleading representations about country of origin of goods Misleading representations about cost of consumer credit Misleading representations about bait advertising of real estate Misleading Representations on fee-charging nursing homes for the elderly, etc.

< Premiums >

Closed lotteries (Notification No. 3, 1977)	Transaction value relating to the premium	Caps on the amount of premiums	
		Maximum amount	Total amount
	Less than ¥5,000	20 times as much as the transaction value	2% of the estimated total sales of transaction relating to the premium
¥5,000 or more	¥100,000		
Joint lotteries (Notification No. 3, 1977)	Caps on the amount of premiums		
	Maximum amount	Total amount	
	¥300,000 regardless of the transaction value	3% of the estimated total sales of transaction relating to the premium	
Premium offers to general consumers not by lotteries (Notification No. 5, 1977)	Transaction value	Maximum amount of premiums	
	Less than ¥1,000	¥100	
	¥1,000 or more	10% of the transaction value	
Notification regarding industry-specific premium (Four industries)	1. Newspaper industry 2. Magazine publishing industry 3. Real Estate industry 4. Ethical drug, medical equipment and hygienic inspection laboratories industries		

Cease-and-desist orders in FY2005 (as of April)

No	Case name	Case outlines	Violated clauses
1	2005 (CDO) No. 5 (4.18.05) Nissho Stock Management Co., Ltd.	<p>In marketing a food named "PerfectDiet" to general consumers after January 2003, Nissho Stock Management posted advertisements for the product in various magazines, and inserted fliers into daily newspapers delivered to subscribers (ie, general consumers) via newspaper delivery agents nationwide.</p> <p>Further, Nissho Stock Management made representations about the food in question in a double-page spread in "ar" (a women's magazine) to the effect that:</p> <p>(i) Significant slimming effects can be easily achieved by eating the food in question as breakfast without restricting other foods, stating: "PerfectDiet is a simple and easy diet. All you have to do is to eat it for breakfast. Except for breakfast, you don't have to change anything about your lifestyle!!";</p> <p>(ii) The slimming effect achieved by taking the food in question as Nissho insisted has already been proved through clinical trials, etc., while showing a narrative text written by a person claiming to be a doctor that "As a result of taking the PerfectDiet, improvement in the metabolic rate and blood-flow amelioration in whole/peripheral parts of the body, which is to fundamental to weight-loss promoting function --- ", etc.;</p> <p>(iii) The product in question has obtained the recommendations of experts to the effect that the slimming effect is achieved by taking the food in question, while showing endorsements of two persons claiming to be a doctor of medicine and a nationally registered dietitian respectively stating "--- significant diet effect, safe for the body, has been found through diverse clinical trials --- ", etc.; and,</p> <p>(iv) Some persons claiming that they ate the food in question have actually experienced a significant slimming effect without difficulty, while showing data stating such slimming effects enabled by taking Perfect Diet together with "actual experiences" of the said persons.</p> <p>The fact is, however, that when JFTC requested Nissho Stock Management to submit data providing reasonable grounds for the representations described above, Nissho did not submit any such data within the time limit.</p>	Sec. 4.(1).(i) (Sec. 4.(2) applied)