

Enforcement Status of the Act against Unjustifiable Premiums and Misleading Representations and
Promotion of Proper Consumer Transactions in Fiscal 2007 (Summary)
(Tentative Translation)

May 7, 2008

Japan Fair Trade Commission

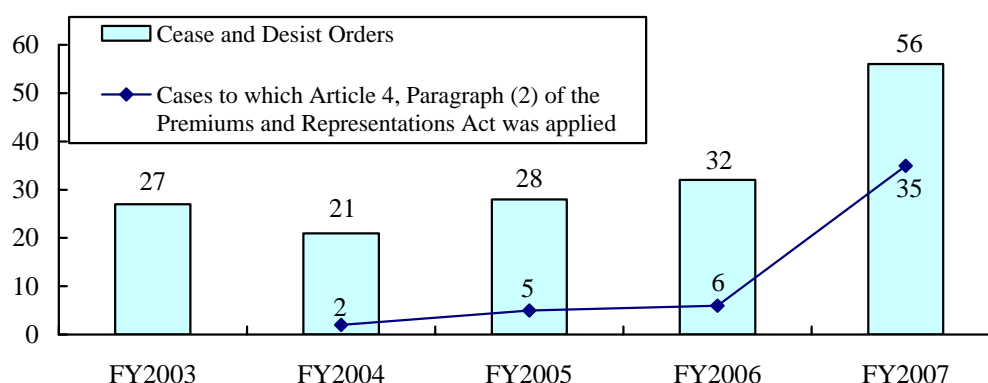
1. Enforcement Status of the Act against Unjustifiable Premiums and Misleading Representations (Premiums and Representations Act)

(1) Enforcement by the Japan Fair Trade Commission (JFTC)

a. Number of cases handled

In the 2007 fiscal year (FY), the JFTC handled a total of 595 cases, 56 of which resulted in cease and desist orders, 19 of which were closed with issuance of warnings, and 520 of which were closed with the issuing of cautions. All cease and desist orders were issued in cases involving misleading representations (the highest-ever number of cases involving misleading representations), of which 35 cases were handled by applying Article 4, Paragraph (2) of the Premiums and Representations Act (which stipulates that any representation shown to consumers is regarded as misleading unless data providing reasonable grounds for the representation can be submitted).

Trends in Cease and Desist Orders Made in the Past Five Years



b. Major cases

In FY2007, cease and desist orders were issued in 38 cases of misleading representations concerning effects and performances. Additionally, cases in the services sector with broad implications for the lives of the public, including misleading representations in the areas of finance and life insurance (conditions for payment of life insurance benefits) and telecommunications (DIAL 104 Service, discount on mobile phone fees*), cases of misleading representations concerning food labeling (representation of marbling of beef, representation of marbling of horse meat), and cases of misleading representations of the regional brand and country of origin (country of origin for glass articles, raw materials of processed chicken*, place of origin for dry food*, country of origin for furniture*, country

of origin for wallets*, etc.) were handled based on trends in public needs.

With respect to misleading representations concerning effects and performances, cases were handled involving the effective life of the heating effect of disposable heat pads, the effect of anti-mosquito devices and the sterilizing effect of aromatic cleansers for flush toilets, and Article 4, Paragraph (2) of the Premiums and Representations Act was actively applied (to misleading representations on a washtrough's effect of keeping bathrooms etc. from free of mold, on products claiming anti-mold effects and on products claiming effects in improving fuel consumption of a car).

(Note) Cases with *marks were closed with the issuing of warnings. Other cases involved cease and desist orders.

(2) Prefectures

In FY2007, there were total of 28 cases in which prefectures issued instructions based on the provisions of the Premiums and Representations Act. All 28 cases involved misleading representations, and 21 concerned food labeling. There were cases of misleading representations on fees for automobile inspections and maintenance etc., where six prefectures cooperated in the investigations and issued instructions simultaneously.

2. Promotion of Proper Consumer Transactions

(1) Review of the Premiums and Representations Act etc.

a. Introduction of a surcharge system for particular types of misleading representations (submission of the amendment bill)

On March 11, 2008, the amendment bill regarding surcharge system was submitted to the 169th Diet session. The bill stipulates that business operators who made misleading representations about their products or services, when sales of the products or services in question were 100 million yen or more and the business operators in question were aware of their misleading representations, or were unaware of the misleading representations due to gross negligence, will be ordered to pay a surcharge, the amount of which is 3% of the sales of the products or services in question.

b. Introduction of a system that allows qualified consumer organizations to take class actions

The amendment bill, which gives the right to demand injunctions concerning misleading representations to organizations qualified under the Consumer Contract Act, was submitted to the 169th Diet session. The bill passed the Diet on April 25, 2008, and became law on May 2 of the same year (to take effect on April 21, 2009).

(2) Establishment of Fair Competition Code, etc.

Since FY2007, the following Fair Competition Codes have been established:

- i. Fair Competition Code on Representations of Soy Sauce (April 2007)
- ii. Fair Competition Code on Representations of *Moromi* (unrefined sake) Vinegar (January 2008)

iii. Fair Competition Code on Representations of Dietary Salt (April 2008)

In addition, requests for the strict and appropriate enforcement of the Codes were made to Fair Trade Councils etc. that administer the Fair Competition Codes, and instructions and advice on methods of administering the Codes were given to them.

(3) Use of consumer monitors, proper consumer transactions promoters, and the e-commerce investigator system

Approximately 1,100 general consumers were commissioned to serve as consumer monitors, of whom about 200 were appointed to be proper consumer transactions promoters. Opinions and information in light of the everyday lives of general consumers were solicited from these people, for example, and used in the enforcement etc. of the Premiums and Representations Act.

Moreover, about 80 general consumers were appointed to be e-commerce investigators. These investigators were asked to provide information about representations of Internet advertisements with the potential to be problematic, etc. Based on the information provided by the investigators, the JFTC educated a number of business operators about proper representations.

(4) Premiums and Representations Act advocacy and education, and exchange of opinions with consumer associations

- To facilitate advocacy and education with respect to the Premiums and Representations Act and to prevent violations of the Act, the JFTC has dispatched its officials as lecturers to training courses for the Premiums and Representations Act, etc. hosted by business associations, consumer associations, or local municipalities. In FY2007, the JFTC dispatched officials on a total of 120 occasions.
- To help general consumers select appropriate services and products by deepening their understanding of the Premiums and Representations Act, the JFTC held seminars for consumers entitled “Our Lives and the Premiums and Representations Act” in Nagoya and Tokyo, respectively.
- The JFTC held meetings with consumer associations throughout Japan, where it explained the JFTC’s activities and exchanged opinions. These activities have aided in the appropriate policy execution of the JFTC. In FY2007, the JFTC held a total of 48 meetings.

(5) Strengthening cooperation etc. with government agencies

For the “Projects for Security of Life” launched as a government-wide measure in November 2007, “Specific Urgent Measures” were put together in December of the same year. The measures that relate to the JFTC include the sharing of information on food labeling among related institutes, and ensuring cooperation etc. among related ministries and agencies that have jurisdiction over institutions concerning illegal business practices. As

a response, the first session of the “Liaison Conference on Food Labeling” was held in February 2008, attended by five related ministries and agencies. The first session of the “Liaison Conference of Ministries Related to Illegal Business Practices” was held in March of the same year, with five related ministries and agencies in attendance.

(6) Cooperation with foreign countries

The JFTC works with foreign authorities by, for example, participating in the International Internet Sweep Days conducted at the initiative of the International Consumer Protection and Enforcement Network (ICPEN), which is mostly made up of consumer protection authorities from OECD member countries.