

Warning to EMOBILE Ltd.  
( Tentative Translation )

September 4, 2008

Japan Fair Trade Commission

The Japan Fair Trade Commission investigated representations related to the business of a mobile phone service provided by EMOBILE Ltd. (hereinafter referred to as EMOBILE) and found the following facts. Accordingly, the commission issued a warning today to EMOBILE that these representations may be in violation of the provision of Item 2, Paragraph 1, Article 4 (Misleading Representations about terms of trade) under the Act against Unjustifiable Premiums and Misleading Representations.

1. Outline of the Party Concerned

Company	Address	Representative
EMOBILE Ltd.	Shin-nikko Bldg., 10-1, Toranomom 2-chome, Minato-ku, Tokyo	Eric Gan, Representative Director

2. Outline of the Violation

When providing the mobile phone service, EMOBILE made the following representations.

(1) Representations about "Fixed-price Pack 24" (Note 1)

A. Posters put up in stations and ads in train carriages

Period	From approx. February 2008 to April 2008
Representations	With the expression "Unbelievable! Calls with no basic charge." and "First among mobile phone services! Just pay 980 yen a month to call free 24 hours a day!" in the posters put up in stations and ads in train carriages, EMOBILE gave the impression that users could make calls by paying only 980 yen per month without any restriction on the mobile phone company the called party had an agreement with.
	It was stated that, "Pay a data communication charge of 1,000 yen per month separately." and "Only in the case of calls between EMOBILE phones made by a caller in EMOBILE's own service area. If the called party uses a phone other than EMOBILE phones or the caller is out of the EMOBILE's own service area, the call will be charged separately corresponding to the call time" in letters disproportionately small given the size of the whole advertisement. (There was no statement about the monthly charge of 105 yen for the domestic roaming service payable in addition to the call fee charged for every use of the service (Note 2)).
Fact	Calls available just by paying the charge of the fixed-price pack 24 were limited to those between EMOBILE phones. In addition, it was necessary to execute an agreement to use the data communication service in order to use the fixed-price pack 24 and such service required payment of a monthly charge of 1,980 yen at minimum. Further, to use the domestic roaming service, it is necessary to pay a separate monthly fee of 105 yen and a predetermined call fee for every use.

(Note 1) "Fixed-price pack 24" means the service where, if the user pays the monthly charge of 980 yen, no additional charge is incurred for calls between EMOBILE phones.

(Note 2) "Domestic roaming service" is a voice telephone service and data communication service provided by EMOBILE using the mobile phone network of NTT DOCOMO.

## B. Commercial Messages on TV

Period	From approx. February 2008 to approx. May 2008
Representations	<p>Messages in CM on TV</p> <p>[Visual message]</p> <p>“Calls with no basic charge!” and “First among mobile phone services! Just pay 980 yen a month to call free 24 hours a day.”</p> <p>[Voice]</p> <p>“Mobile phone service from EMOBILE that enables calls to be made free of a basic charge. Unbelievable! First among mobile phones. Pay 980 yen a month to make calls between EMOBILE phones 24 hours a day”</p> <p>These representations gave the impression that consumers could make calls between EMOBILE phones at a monthly charge of only 980 yen.</p> <p>The visual message “It is necessary to pay a separate data communication charge of at least 1,000 yen per month” was shown in letters disproportionately small given the size of the whole TV CM and were only shown for a short period.</p> <p>(There was no broadcast message about the domestic roaming service informing of the necessity of making a call fee payment for every use of the service and the monthly charge of 105 yen to use the service.)</p>
Fact	Same as A above

(2) Comparison advertisement of fixed-price pack 24 and data communication services (“Mobile phone fixed-price services” hereinafter) with PHS services provided by other companies.

Media	Newspapers and magazines
Period	From approx. March 2008 to approx. April 2008
Representations	<p>In an advertisement carried by newspapers and magazines, the following two pieces of information are shown under the title “Comparison of charges for fixed-price calls + Fixed-price data communication service”:</p> <ol style="list-style-type: none"> <li>1) For “EM EMOBILE”, it was stated that “Data communication charge: 1,000 yen/month at minimum” and “980 yen/month for free calls for 24 hours between EMOBILE phones!” and a bar representing 1,980 yen as the total of these amounts was shown in the graph.</li> <li>2) For “Other company’s PHS”, it was stated that “Data communication charge: 1,050 yen/month at minimum” and “2,900 yen/month for free calls for 24 hours between PHS devices of that company!” and a bar representing 3,950 yen as the total of these amounts was shown in the graph.</li> </ol> <p>These two explanations indicated side-by-side gave the impression that the fixed-price service charge for EMOBILE phones was almost half that required for the equivalent service provided by other PHS companies.</p> <p>It was stated that “EMOBILE data communication charge (1,000 yen/month at minimum) includes free calls for 1,000 yen/month (23,825 packets)”.</p>
Fact	<p>The charge for the mobile phone fixed-price service provided by EMOBILE was almost half that required for an equivalent PHS service from other companies only when the user used the data communication service for 23,825 packets at maximum per month. The charge may be higher than that or may not be about half the charge for other companies’ PHS depending on the use of the data communication service.</p>