

Application of the Premiums and Representations Act in FY2003 and
Measures for the Proper Consumer Transactions (Summary)

May 26, 2004
Fair Trade Commission

#1. Processing of Cases under the Premiums and Representations Act

1. Number of cases processed

The number of cases processed under the Premiums and Representations Act in FY2003 was 651 in total, comprising 27 cease and desist orders, 382 warnings and 242 cautions. The total number of cases grew 117 (about 22%) from FY2002. Moreover, the number of cases of cease and desist orders has increased considerably from three in FY2000 to 27 in FY2003.

Changes in number of cease and desist orders in past 5 years

FY1999	FY2000	FY2001	FY2002	FY2003
6	3	10	22	27

2. Main cases

(1) Cease and desist orders

A breakdown of cease and desist orders in FY2003 is as follows.

- Misleading representations relating to the content, etc. of care services by a fee-paying homes for the elderly: 3 cases

- Misleading representations relating to hospitalization benefits under cancer insurance by a life insurance company: 1 case
- Misleading representations relating to the country of origin of badminton shuttlecocks, pedometers, etc.: 4 cases
- Misleading representations relating to non-fruit juice soft drinks: 5 cases
- Misleading representations relating to lucky purses and human growth courses by mail order firms: 2 cases
- Misleading representations claiming to be shikuwasa juice drink: 7 cases
- Misleading representations relating to the mileage of pre-owned cars: 2 cases
- Misleading representations claiming that it is possible to drive an electric scooter on the highway: 3 cases

From April 2004 to the present, the Fair Trade Commission has issued a cease and desist order in one case of misleading double price labelling by a supermarket stressing low prices.

(2) Main warnings

In terms of representations cases, the Fair Trade Commission has published warnings about so-called health foods claiming to have a remarkable slimming effect, and in every type of industry particularly consumer electronics large-scaled stores and retail opticians, there have been cases of misleading price representation. Meanwhile, in terms of premiums cases, there have been cases where premiums such as trips abroad, etc. have been provided as prizes.

#2. Enforcement of Amended Premiums and Representations Act

In May 2003 the law amending part of the Act Against Unjustified Premiums and Misleading Representations (2003 Law No. 45) was enacted. This law consists in the establishment of Paragraph 2 of Article 4 to effectively regulate misrepresentations indicating excessive superiority without rational grounds and the strengthening of the executive powers of prefectural governors (widening the scope within which prefectural governors are allowed to give instructions and raising penalties for the obstruction of on-site inspections, etc.). has been enforced from November 2003 and has been enforced from June 2003.

Regarding the newly established Paragraph 2 of Article 4, to ensure that application of the law is transparent and firms can predict application of the law, the Fair Trade Commission has established and published Guidelines on the Application of Paragraph 2 of Article 4 of the Act Against Unjustified Premiums and Misleading Representations, and has made its position on the application of said paragraph clear (October 2003).

The Fair Trade Commission will deal strictly and speedily with misrepresentations in relation to effect or performance through the active application of said provision.

#3. Designation of “misrepresentations relating to fee-paying homes for the elderly ”

The Fair Trade Commission has designated “Misrepresentations relating to fee-paying homes for the elderly ” under 3 of Paragraph 1 of Article 4 of the Premiums and Representations Act, in order to prevent misrepresentations and to deal strictly with misrepresentations by clarifying representations that might be misunderstood by consumers with respect to the content of various types of

service provided by fee-paying homes for the elderly (March 2004, enforced from October 1, 2004). Alongside this, the Fair Trade Commission has published the 'Guidelines for Misrepresentations Relating to Fee-Paying Homes for the Elderly, etc. '(Draft) "and appealed for views from all quarters.

#4. Measures for the Proper Consumer Transactions

1. Measures for the rationalization of electronic commercial transactions for consumers

The Fair Trade Commission conducted a fact-finding survey of advertisement representations relating to the ADSL connection service transactions of Internet connection service providers (June 2003), and, based on the results of said survey, made a partial amendment (August 2003) to 'Problems and Points to Note in Relation to the Premiums and Representations Act Concerning Representations in Electronic Commercial Transactions for Consumers " (enacted and published June 2002), including expanding examples of problems and points to note relating to representations. In addition, the Fair Trade Commission increased the number of 'Electronic Commercial Transactions Investigators " entrusted with investigating advertisement representations on the Internet for general consumers, etc. in FY2003 from 50 to 80, and strengthened monitoring systems.

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

(1) Representations in newspaper advertisements for insurance products

When the Fair Trade Commission conducted a survey of representations in newspaper advertisements, etc. for insurance products, there were

representations that cannot be said to represent clearly to consumers the restrictive terms, etc. in the coverage, and representations that stress the low cost and convenience of premiums, etc. by, for example, emphatically representing only examples of the premiums of a specific age group.

Therefore, the Fair Trade Commission made an indication for the rationalization of representations to each of the insurance companies that had made such advertisement representations, and also made a request to the Life Insurance Association for measures, etc. on the measures for the proper representations, including the establishment of a fair competition code (May 2003).

(2) Representations of so-called non-alcoholic drinks

So-called non-alcoholic drinks, which are labeled with the name of the type of alcoholic drink with the prefix “non-alcoholic,” actually have a certain alcohol content, and there is the possibility of consumers misunderstanding that such drinks are an alternative to the alcoholic drink with no alcoholic content whatsoever.

In view of such a situation, from the standpoint of helping consumers to make proper product choices, the Fair Trade Commission made a request to trade associations that have manufacturers and sellers of non-alcoholic drinks among their members for guidance on the rationalization of representations to their members (July 2003).

(3) Representations relating to hot springs

The Fair Trade Commission conducted a fact-finding survey of hot spring representations and consumer awareness, etc., because in recent years, reflecting the health-orientation of consumers and the hot spring boom, there has been an increase in the number of representations emphasizing the content of hot springs in travel agent pamphlets, etc.

Based on this, the Fair Trade Commission adjusted its position on the Premiums and Representations Act regarding representations with the emphasis of direct use of the source such as “100% Source ” and the representation “Natural Source, ” and also requested relevant groups to make known to their affiliated members without exception that they should provide information on the source more actively (July 2003).

(4) Representations on TV shopping programs

The Fair Trade Commission conducted a fact-finding survey on representations in TV shopping programs, and, based on the survey results, showed examples of representations that might be problematic under the Premiums and Representations Act and also summarized its position on the Premiums and Representations Act with respect to representations claiming efficacy or representations of users talking about their experiences, for example.

Furthermore, the Fair Trade Commission requested trade associations for sellers and trade associations for broadcasters to take voluntary measures for the rationalization of representations on TV shopping programs (September 2003).

3. Establishment and amendment of fair competition agreements

In view of changes in circumstances such as the diversification of products and methods of representation and the diversification of consumer needs, the Fair Trade Commission newly acknowledged the establishment of a fair competition code on representations in the motorcycle industry, and also acknowledged amendments of fair competitions codes on representations in the automotive industry and premiums in the consumer electronics manufacturing industry (October 2003).

From 2004 to the present the Fair Trade Commission has newly acknowledged the establishment of a fair competition agreement on representations for miso (May 2004).

4. Strengthening of ties with relevant administrative organizations, etc.

The Fair Trade Commission has had a regular exchange of views with the Cabinet Office 's National Lifestyle Bureau and the National Lifestyle Center, and has also decided to collaborate with the testing and inspection activities of the National Lifestyle Center in the processing of cases under the Premiums and Representations Act. In addition, the Fair Trade Commission has provided support, etc. for initiatives by prefectural governments on the Premiums and Representations Act.