

GUIDELINES FOR THE INTERPRETATION OF THE
NOTIFICATION ON
PREMIUM OFFERS TO GENERAL CONSUMERS

April 1, 1977

Secretary General Notice No. 6

(Amendment: Secretary General Notice No. 1 of February 16, 1996)

Upon a decision of the Fair Trade Commission (hereinafter referred to as "FTC"), the Notification Concerning Designation of Premium, Etc. (FTC Notification No. 5 of 1977) should be interpreted in accordance with the following guidelines;

Guidelines for the Interpretation of the Notification on Premium Offers to General Consumers

I. Interpretation of "value of transaction in connection of which premiums are offered" in Section 1 of the Notification

- A. Where premiums are offered to the purchaser in accordance with the amount spent on the purchase, this amount shall be the "value of the transaction."
- B. Where premiums are provided to the purchaser irrespective of the amount spent on the purchase, the "value of the transaction" shall as a general rule be taken as 100 JPY. However, in the event that the lowest transaction value among the various commodities and/or services in respect of which the premiums are provided is recognized to be clearly less than 100 JPY, this lowest transaction value shall be taken as the "value of the transaction." On the other hand, where the lowest of the normal transaction values for the various commodities and/or services in respect of which the premiums are provided is recognized to be greater than 100 JPY, this lowest transaction value may be taken as the "value of the transaction."
- C. Where premiums are offered to customers entering a retail outlet without requiring a purchase to be made, the "value of the transaction" shall as a general rule be taken

as 100 JPY. However, where the lowest of the normal transaction values at the retail outlet in question is recognized to be greater than 100 JPY, this lowest transaction value may be taken as the "value of the transaction." In the case of methods such as the offer of premiums to customers who enter a retail premises in response to direct mail received in relation to certain specific commodities and/or services, where it is recognized that the premiums are limited to certain commodities and/or services only, the price of such commodities or services shall be treated as the "value of the transaction."

D. The transaction value used to calculate the limit on premiums shall be either the actual transaction value of the commodity or service in question (if the premium is provided by a retailer or service supplier) or the ordinary transaction value of the commodity or service in the district where the premium is provided (if the premium is provided by a manufacturer or wholesaler).

E. Where two or more premiums are provided under the same transaction, the following shall apply:

1. Where the premiums are provided by the same entrepreneur but under different schemes, the value of premiums provided shall be the sum total of the value of the respective premiums,
2. Where the premiums are provided in conjunction with other entrepreneurs but under different schemes, each entrepreneur is deemed to have provided premiums equivalent to the value of the sum total of the respective premiums, or
3. Where an entrepreneur provides premiums additionally but not in conjunction with other entrepreneurs, the entrepreneur (which provides additional premiums) is deemed to have provided premiums to the value of the sum total of the respective premiums.

II. Interpretation of "goods and/or services which are necessary either for the sale or use of a commodity or for the offering of a service" in Section 2, Subsection 1 of the Notification

Determination shall take into account factors such as the characteristics and degree of necessity of the goods and/or services in question, whether or not they could ordinarily be purchased for monetary payment, and the current circumstances of their offer in the relevant industries, and shall be based on the viewpoint of fair competition order (e.g. delivery of heavy household furniture; offer of teaching materials at training courses; courtesy bus services to lodgings in locations difficult to

access by public transport; batteries for portable radios; distribution of booklets containing plot summaries at theaters; and similar goods and/or services within an appropriate limit shall as a general rule be deemed to fall under Section 2, Subsection 1 of the Notification).

III. Interpretation of "samples and other goods and/or services used for promotional purposes" in Section 2, Subsection 2 of the Notification

A. Determination shall take into account factors such as the nature, method of offering, and degree of necessity of the samples etc. and the current circumstances of their offer in the relevant industries, and shall be based on the viewpoint of fair competition order.

B. As a general rule, goods and/or services provided in order to encourage purchasing by demonstrating the nature, characteristics, flavor, quality or other aspects of an entrepreneur's commodities or services via methods such as tasting or trial use shall, within an appropriate limit, be deemed to fall under Section 2, Subsection 2 of the Notification (e.g. miniature samples or trial packs of food or everyday household items; samples provided at in-store food counters; complimentary make-up services at in-store cosmetics counters; one-day free trial lessons at sporting schools. The commodity or service, when actually provided, must be the smallest transactable unit of its kind and clearly shown to represent that it is being provided for the purpose of tasting, trial use or the like.)

C. As a general rule, goods and/or services provided in order to advertise an entrepreneur's name shall, within an appropriate limit, be deemed to fall under Section 2, Subsection 2 of the Notification (e.g. calendars and memo pads bearing a company name).

D. As a general rule, the distribution by request of another entrepreneur of samples or other goods or services used for promotional purposes shall be deemed to fall under Section 2, Subsection 2 of the Notification.

IV. Interpretation of "discount coupons, or other certificates wherein price discount is promised by the offerer usable for transactions of commodities and/or services he supplies" in Section 2, Subsection 3 of the Notification

A. Determination shall take into account factors such as the method of offering of coupons, the extent and method of discounts, and the current circumstances with respect to such discounts in the relevant industries, and shall be based on the viewpoint of fair competition order.

B. "Certificates" shall include monetary coupons, which bear a monetary value and are used toward monetary payment (excluding coupons that can only be exchanged for specific commodities or services), and discount coupons that can be commonly used for transactions of commodities and/or services provided by the issuing entrepreneur as well as commodities and/or services provided by other entrepreneurs (wherein redeemable for discount of the same amount).

V. Relation with Fair Competition Codes

With respect to stipulations concerning the offer of premiums set out in this Notification, where Fair Competition Codes exist within the scope of the Notification and associated guidelines, reference should be made to the provisions of the Fair Competition Codes.