
CHAMBERS GLOBAL PRACTICE GUIDES

Advertising & Marketing 2025

Definitive global law guides offering
comparative analysis from top-ranked lawyers

Japan: Law and Practice

Tsuyoshi Ikeda, Takaaki Someya,
Muneharu Yamamoto and Hiroaki Miyauchi
Ikeda & Someya



JAPAN

Law and Practice

Contributed by:

Tsuyoshi Ikeda, Takaaki Someya, Muneharu Yamamoto and Hiroaki Miyauchi
Ikeda & Someya



Contents

1. Legal Framework and Regulatory Bodies p.4

- 1.1 Primary Laws and Regulation p.4
- 1.2 Enforcement and Regulatory Authorities p.4
- 1.3 Liability for Deceptive Advertising p.4
- 1.4 What Is Advertising? p.4
- 1.5 Pre-Approvals p.5
- 1.6 Intellectual Property and Publicity Rights p.5
- 1.7 Self-Regulatory Authorities p.5
- 1.8 Private Right of Action for Consumers p.5
- 1.9 Regulatory and Legal Trends p.5
- 1.10 Taste and Cultural Concerns p.5
- 1.11 Politics, Regulation and Enforcement p.5

2. Advertising Claims p.5

- 2.1 Deceptive or Misleading Claims p.5
- 2.2 Regulation of Advertising Claims p.5
- 2.3 Substantiation of Advertising Claims p.5
- 2.4 Product Demonstrations p.5
- 2.5 Endorsements and Testimonials p.6
- 2.6 Environmental Claims p.6
- 2.7 Disclosures p.6
- 2.8 Other Regulated Claims p.6

3. Limitations and Special Laws p.6

- 3.1 Representation and Stereotypes in Advertising p.6
- 3.2 Children p.6
- 3.3 Dark Patterns p.6
- 3.4 Sponsor Identification and Branded Content p.6
- 3.5 Special Rules for Native Advertising p.6

4. Comparative Advertising and Ambush Marketing p.6

- 4.1 Specific Rules or Restrictions p.6
- 4.2 Competitor Copyrights and Trade Marks p.6
- 4.3 Challenging Comparative Claims Made by Competitors p.6
- 4.4 Ambush Marketing p.7

5. Social/Digital Media p.7

- 5.1 Special Rules Applicable to Social Media p.7
- 5.2 Liability for Third-Party Content p.7
- 5.3 Disclosure Requirements p.7
- 5.4 Requirements for Use of Social Media Platforms p.7
- 5.5 Influencer Campaigns and Online Reviews p.7

6. Privacy and Advertising p.7

- 6.1 Email Marketing p.7
- 6.2 Telemarketing p.8
- 6.3 Text Messaging p.8
- 6.4 Targeted/Interest-Based Advertising p.8
- 6.5 Marketing to Children p.8
- 6.6 Other Rules p.8

7. Sweepstakes and Other Consumer Promotions p.8

- 7.1 Sweepstakes and Contests p.8
- 7.2 Contests of Skill and Games of Chance p.8
- 7.3 Registration and Approval Requirements p.8
- 7.4 Free and Reduced-Price Offers p.8
- 7.5 Automatic Renewal/Continuous Service Offers p.8

8. Artificial Intelligence p.8

- 8.1 AI and Advertising Content p.8
- 8.2 AI-Related Claims p.8
- 8.3 Chatbots p.8

9. Web 3.0 p.9

- 9.1 Cryptocurrency and Non-Fungible Tokens (NFTs) p.9
- 9.2 Metaverse p.9

10. Product Compliance p.9

- 10.1 Regulated Products p.9
- 10.2 Product Placement p.9
- 10.3 Other Products p.9

Ikeda & Someya was founded in Tokyo in October 2018 by two lawyers, Tsuyoshi Ikeda and Takaaki Someya, who previously worked at the Japan Fair Trade Commission and the Consumer Affairs Agency, respectively, and used this experience to develop a leading practice in advertising and marketing regulation (including complex matters under the Act against Unjustifiable Premiums and Misleading Representa-

tions). Ikeda & Someya also has 21 other lawyers, more than half of whom have experience at regulatory agencies or in-house at major companies. Ikeda & Someya operates three offices in Japan, located in Tokyo and other major cities. The two founding partners' comments have been cited in various newspapers, magazines and media, including the Nikkei.

Authors



Tsuyoshi Ikeda is a founding partner at Ikeda & Someya. He previously served as an investigator at the Japan Fair Trade Commission, where he participated in around 20 dawn raids, prepared the implementation of the

leniency system, and investigated a case involving standard essential patents. In addition to antitrust and competition cases, Tsuyoshi has experience in advising on advertising regulation and the Act against Unjustifiable Premiums and Misleading Representations. He is noted for his success in the most cutting-edge cartel, merger review and antitrust/competition cases. Tsuyoshi is registered as an attorney in New York and California.



Takaaki Someya is a founding partner at Ikeda & Someya. He has deep experience in consumer affairs from his work at the Consumer Affairs Agency (CAA), including drafting articles and guidelines for the revised

Act against Unjustifiable Premiums and Misleading Representations. He has advised on CAA investigations, marketing legal strategies, and law amendments. Additionally, his role as in-house counsel at a major IT company and secondment to a fintech firm give him practical experience in technology businesses, including IT, gaming, fintech and data.



Muneharu Yamamoto gained extensive experience at a major international law firm in a wide range of corporate legal matters, with a focus on representing domestic and foreign companies in litigation and

disputes. He also gained familiarity with the US legal system while attending law school in the USA. Drawing on such experience, Muneharu provides practical advice tailored to business in the fields of advertising, marketing regulation and consumer protection law, with a particular emphasis on compliance with the Act against Unjustifiable Premiums and Misleading Representations.



Hiroaki Miyauchi has experience in handling a broad range of legal matters, including antitrust law, the Subcontract Act, and advertising and consumer protection laws. At the Consumer Affairs Agency, he worked

on enforcement and policy issues, particularly relating to the Act on Specified Commercial Transactions. He also served as in-house counsel at the Japan Business Federation (Keidanren), where he contributed to various legal reforms and guideline development. Miyauchi provides practical, business-focused legal advice tailored to client needs.

Ikeda & Someya

Yurakucho ITOCiA 16th floor
2-7-1, Yurakucho
Chiyoda-ku
Tokyo
Japan

Tel: +81 50 1745 4000
Fax: +81 3 6261 7700
Email: tsuyoshi.ikeda@ikedasomeya.com
Web: www.ikedasomeya.com



1. Legal Framework and Regulatory Bodies

1.1 Primary Laws and Regulation

In Japan, the Act against Unjustifiable Premiums and Misleading Representations (AUPMR) serves as the primary law regulating the content of consumer-oriented advertisements.

1.2 Enforcement and Regulatory Authorities

Key enforcement and regulatory authorities include the Consumer Affairs Agency (CAA), local governments and the Japan Fair Trade Commission (JFTC).

The CAA and local governments can issue cease-and-desist orders for violation of the AUPMR. Furthermore, for violations of Article 5 (i) and (ii) of the AUPMR, the CAA can issue orders to pay surcharges. In contrast, the JFTC only has authority to investigate the case and report it to the CAA.

Article 5 states that no entrepreneur may make a representation as provided for in any one of the following items in connection with the transaction of goods or services which the entrepreneur supplies:

- (i) any representation where the quality, standard or any other particular relating to the content of goods or services is portrayed to general consumers as being significantly superior to that of the actual goods or services, or is portrayed as being, contrary to fact, significantly superior to those of other entrepreneurs who supply the same kind of or similar goods or services as those supplied by

the relevant entrepreneur, thereby being likely to induce customers unjustly and to interfere with general consumers' voluntary and rational choice-making; and

- (ii) any representation by which price or any other trade terms of goods or services could be misunderstood by general consumers to be significantly more advantageous than the actual goods or services, or than those of other entrepreneurs who supply the same kind of or similar goods or services as those supplied by the relevant entrepreneur, thereby being likely to induce customers unjustly and to interfere with general consumers' voluntary and rational choice-making.

1.3 Liability for Deceptive Advertising

Under the AUPMR, the business operator – which means a person or entity engaged in commerce, the manufacturing industry, the financial industry or other businesses – can be held liable when it makes a misleading representation for the transaction of goods or services that it supplies.

1.4 What Is Advertising?

The AUPMR regulates “representations” made by a business operator as a means of inducing customers regarding the content of goods or services supplied by the business operator, or the trade conditions or other matters concerning the transactions that are designated by the Prime Minister. This includes not only flyers and web advertisements but also sales pitches, etc.

1.5 Pre-Approvals

No prior approval from the government or other authorities is required to make “representations”.

1.6 Intellectual Property and Publicity Rights

Intellectual property rights are protected by laws such as the Copyright Act; therefore, it should be noted that the use of the intellectual property can infringe those rights. While there are no specific laws concerning portrait rights, they are protected, allowing claims for damages or injunctions against infringement.

1.7 Self-Regulatory Authorities

When a business operator (or a trade association) concludes or establishes an agreement or rules for preventing violation of the AUPMR and obtains approval from the Commissioner of the CAA and the JFTC, the business operator’s representation does not constitute misleading representation as long as it makes representation in accordance with the agreement or rule.

The participation in the agreement is voluntary, and a business operator may freely withdraw from it.

1.8 Private Right of Action for Consumers

Consumers can file a lawsuit against the business operator, claiming for damages based on tort, and claiming a refund based on the invalidity of the contract.

A qualified consumer organisation can bring an injunction and redress for damages to consumers.

1.9 Regulatory and Legal Trends

A case was recently decided in favour of the business operator for the first time, in a lawsuit for the revocation of an administrative disposition by the CAA, under the AUPMR.

1.10 Taste and Cultural Concerns

There are no special concerns that advertisers should keep in mind.

1.11 Politics, Regulation and Enforcement

The AUPMR was enacted in 1962 and was initially overseen by the JFTC. In 2009, oversight of the AUPMR was transferred to the newly established CAA to

allow for more proactive enforcement against misleading representations to consumers. Since then, the number of enforcements concerning misleading representations has increased.

Under the AUPMR, a surcharge was implemented in 2014, the stealth marketing regulation was implemented in 2023 and the commitment procedure was enacted in 2024.

2. Advertising Claims

2.1 Deceptive or Misleading Claims

The determination is based on whether the representation indicates that the content (quality, standard, etc) of goods or services or the trade conditions of the transaction are significantly superior or more advantageous than they actually are.

2.2 Regulation of Advertising Claims

As long as they fall under the definition of “representations” referred to in **1.4 What is Advertising?**, all representations are subject to regulation under the AUPMR.

2.3 Substantiation of Advertising Claims

The AUPMR requires materials indicating reasonable grounds that support the representation, such as results obtained through testing and investigation, opinions of experts, expert organisations or specialised institutions, or academic literature, and so on. The contents demonstrated in the materials need to be approximately aligned with the displayed effects of representation.

2.4 Product Demonstrations

If the content of a demonstration indicates that the product or service is significantly superior to what it actually is, this may constitute a misleading representation under the AUPMR.

Additionally, if the advertiser is found to have been involved in determining the demonstration’s content without a disclosure, such as public relations (PR) – for instance, when requesting an influencer to perform the demonstration – it can be categorised as stealth marketing, which is prohibited under the AUPMR.

2.5 Endorsements and Testimonials

If endorsements and testimonials are considered a business operator's representations but are also recognised as being difficult for general consumers to identify as such, this constitutes a violation of the regulation of stealth marketing under the AUPMR.

Additionally, such representations can constitute misleading representations under the AUPMR if the endorsements and testimonials are false or if their contents are modified.

2.6 Environmental Claims

There are no special rules that apply to environmental claims in advertisements. Nonetheless, if a business operator makes a representation that misleads general consumers into regarding the impact on the environment as less than it is, this can constitute a violation of the AUPMR. An administrative disposition was made against such a representation in recent years.

2.7 Disclosures

There is a legal obligation to display specified mandatory information in advertisements under the Act on Specified Commercial Transactions (ASCT) regarding certain types of transaction.

2.8 Other Regulated Claims

In addition to misleading representations on quality and superiority and on transaction terms, the AUPMR also covers other types of unjustifiable representations designated by the Prime Minister. These designated representations are:

- misleading representations concerning the country of origin of products;
- representations concerning soft drinks without fruit juice;
- misleading representations concerning the cost of consumer credit;
- representations concerning bait advertising;
- representations concerning bait advertising for real estate;
- misleading representations concerning paid nursing homes; and
- representations that are difficult for general consumers to discern that they are made by business operators (stealth marketing).

3. Limitations and Special Laws

3.1 Representation and Stereotypes in Advertising

There are no special rules that address stereotyping in advertising or inclusion, diversity and equity.

3.2 Children

There are no special rules related to advertising to children.

3.3 Dark Patterns

There are currently no special rules related to "dark patterns" in advertising.

3.4 Sponsor Identification and Branded Content

The use of sponsor identification or branded content can infringe a trade mark protected under the Trade-mark Act or constitute an unfair competition conduct violating the Unfair Competition Prevention Act.

3.5 Special Rules for Native Advertising

If the advertising that has the look and feel of editorial or entertainment content is considered a business operator's representation, but is also recognised as being difficult for general consumers to identify as such, this constitutes a violation of the AUPMR.

4. Comparative Advertising and Ambush Marketing

4.1 Specific Rules or Restrictions

Comparative advertising claims are also subject to regulation under the AUPMR.

4.2 Competitor Copyrights and Trade Marks

The AUPMR does not restrict using the name of a competitor or a competitor's trade mark, but the use thereof can infringe intellectual property rights (such as the trade mark or copyright), depending on the specific facts of the case.

4.3 Challenging Comparative Claims Made by Competitors

If the competitor's representation infringes the intellectual property rights of the advertiser, the advertiser

can claim damages based on tort and seek an injunction based on intellectual property laws.

If the competitor makes a misleading representation, the advertiser can bring an injunction and claim compensation for damages, alleging that the representation constitutes unfair competition conduct under Unfair Competition Prevention Act.

An advertiser can report the case to the CAA, but it is at the CAA's discretion whether to investigate and issue an administrative disposition.

4.4 Ambush Marketing

There are no special rules related to ambush marketing.

If the marketing uses a trade mark or copyright, etc, it can infringe intellectual property rights (such as the trade mark or copyright) and can constitute unfair competition conduct.

5. Social/Digital Media

5.1 Special Rules Applicable to Social Media

There are no specific rules that apply only to online or social media advertising.

5.2 Liability for Third-Party Content

Liability depends on the advertiser's involvement in determining the content of the representation.

Regarding content posted by a third party on a website operated by an advertiser, advertising regulations including the AUPMR may be applied to the advertiser, as the entire website is likely to be deemed to constitute a representation by that advertiser.

In contrast, concerning social media, the advertiser will be held responsible for compliance with advertising regulations if they are assessed as having caused the third party to make the post, either explicitly or implicitly.

5.3 Disclosure Requirements

Advertisements and confirmation screens regarding contract details prior to the completion of applica-

tions on social media platforms may also be subject to the legal obligation to display mandatory information under the ASCT.

5.4 Requirements for Use of Social Media Platforms

There are no unique rules or regulations that apply to the use of major social media platforms.

5.5 Influencer Campaigns and Online Reviews

5.5.1 Special Rules/Regulations on Influencer Campaigns

Influencer campaigns are subject to stealth marketing regulation under the AUPMR; see 2.5 Endorsements and Testimonials. The business operator is required to have influencers put marks such as "PR" on the representation, depending on the specific facts of the case.

5.5.2 Advertiser Liability for Influencer Content

In cases where the influencer's representation is considered the business operator's representation (such as when a post is requested by the business), the advertiser can be held liable for the content of the influencer's representation. In such cases, the advertiser has an obligation to monitor whether the influencer includes disclosures such as "PR" and to ensure that no other misleading representations are made.

5.5.3 Consumer Reviews

Customer reviews can be subject to stealth marketing regulation under the AUPMR; as such, in cases where the advertiser is assessed as having been involved in determining the content of consumer reviews, the advertiser is required to put marks such as "PR" on the representation.

Additionally, in such cases, the advertiser can be held liable for the content of the customer review and has an obligation to monitor it.

6. Privacy and Advertising

6.1 Email Marketing

Regarding sending an email for marketing, the Act on Regulation of Transmission of Specified Electronic Mail (ARTSEM) requires the consent of the recipient,

in principle. On violation of the ARTSEM, an administrative disposition ordering improvement is issued.

6.2 Telemarketing

There are no specific rules applicable to inbound and/or outbound telemarketing.

6.3 Text Messaging

The ARTSEM (described in 6.1 Email Marketing) is applicable to text messaging.

6.4 Targeted/Interest-Based Advertising

Under the Act on the Protection of Personal Information (APPI), personal data may only be used within the scope of the purposes of use that has been predetermined and publicly announced (or notified to the individual). If consumer advertising is not included in those stated purposes of use, targeted advertising or retargeting cannot be performed.

6.5 Marketing to Children

There are no specific rules that apply to collection or use of personal information from children.

6.6 Other Rules

There are no other particularly important rules related to advertising.

7. Sweepstakes and Other Consumer Promotions

7.1 Sweepstakes and Contests

Under the AUPMR, the offering of premiums by means of lotteries is restricted.

The maximum value of a single premium is limited to 20 times the value of the transaction to which the premium is attached. (If the transaction value is JPY5,000 or more, the limit is capped at JPY100,000.)

Additionally, the total value of all offered premiums must not exceed 2% of the projected total sales revenue of the transaction.

7.2 Contests of Skill and Games of Chance

Even in cases where the winner is determined by skill-based competition, the offering of premiums is subject

to the AUPMR's prize restrictions, without distinction from cases determined by chance, such as lotteries.

7.3 Registration and Approval Requirements

Unless the facility is categorised as a game centre or similar establishment, no special prior permission is generally required.

7.4 Free and Reduced-Price Offers

Discounts that deviate from the scope of normal business practices are subject to the premium restrictions under the AUPMR.

Furthermore, excessively low pricing that unduly affects the competitive environment may constitute a violation of the Antimonopoly Act.

7.5 Automatic Renewal/Continuous Service Offers

In the case of mail-order sales targeting consumers, there is an obligation to clearly specify the contract details, including the automatic renewal terms, in advertisements and on the application form/final confirmation screen prior to the application.

8. Artificial Intelligence

8.1 AI and Advertising Content

There are no legally binding rules or guidance related to the use of artificial intelligence (AI) in connection with the development of advertising content.

8.2 AI-Related Claims

There are no special rules related to making claims that a product is developed through the use of AI, is powered by AI or has AI-related capabilities.

8.3 Chatbots

There are no special rules related to the use of chatbots.

9. Web 3.0

9.1 Cryptocurrency and Non-Fungible Tokens (NFTs)

The Financial Instruments and Exchange Act and the Payment Services Act are applicable to the advertising, marketing or sale of cryptocurrency and/or non-fungible tokens (NFTs).

9.2 Metaverse

There are no special rules or regulations in this jurisdiction that apply to advertising within the metaverse.

10.2 Product Placement

There are no special rules related to the placement of products in entertainment content. The AUPMR, including the stealth marketing regulation, may regulate this area depending on the specific facts of the case.

10.3 Other Products

It is necessary to examine each product and service on a case-by-case basis.

10. Product Compliance

10.1 Regulated Products

Regarding the advertisements of drugs and medical devices, the Act on Securing Quality, Efficacy and Safety of Products Including Pharmaceuticals and Medical Devices prohibits exaggerated advertisements (including statements leading to the false impression of certification by a physician, etc) and advertisements before the requisite approvals are obtained.

CHAMBERS GLOBAL PRACTICE GUIDES

Chambers Global Practice Guides bring you up-to-date, expert legal commentary on the main practice areas from around the globe. Focusing on the practical legal issues affecting businesses, the guides enable readers to compare legislation and procedure and read trend forecasts from legal experts from across key jurisdictions.

To find out more information about how we select contributors, email Rob.Thomson@chambers.com