

Japanese Law News Monthly Bulletin 2005/2**HEADINGS****FOCUS in February**

1. **Equity (securities law, corporate law)**
2. **Debt (insolvency law, banking and finance law)**
3. **Goods and Services (contracting, competition law, IP, PL, consumer law)**
4. **Labour (employment law, pension system)**
5. **Oversight and Policy (administrative law, public official law, tax policy)**
6. **Social Context (NPO law, civil justice reforms, education)**
7. **Legal Policy (constitutional reform, international relations)**

FOCUS in February: Livedoor steps up Fuji TV fight

Livedoor Co. will ask the Tokyo Stock Exchange and the Securities and Exchange Surveillance Commission to check the legitimacy of Nippon Broadcasting Inc. issuing warrants to Fuji Television Network Inc., according to sources. The Internet service provider claims Nippon Broadcasting would violate the Securities Exchange Law if it issues the warrants. The move comes after Livedoor filed a lawsuit Thursday seeking a provisional injunction to bar Nippon Broadcasting from issuing warrants worth 15.87 billion yen in an effort to thwart Livedoor's bid to take over the broadcaster:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050228a7.htm>> (28 February)

See also, "Livedoor sues to block radio company's tactic"

<<http://www.asahi.com/english/business/TKY200502250145.html>> (25 February)

1. Equity (securities law, corporate law)

"Shareholders seek 350 million yen"

A total of 211 individual shareholders and two firms filed Tuesday [1 February] a class-action suit against Kokudo Corp., Seibu Railway Co. and their former executives at the Tokyo District Court, demanding 350 million yen in compensation for losses incurred after Seibu Railway shares were delisted due to a scandal over falsified accounts:

<<http://www.yomiuri.co.jp/newse/20050203wo26.htm>> (3 February; full text in PDF is available on request)

"Prosecutors to probe Seibu Rail stock-statement scandal"

Tokyo prosecutors have reportedly decided to launch a full-scale investigation as early as this week into the scandal over false statements about shareholdings in Seibu Railway Co. According to sources close to the case, the Tokyo District Public Prosecutor's Office will look into whether there had been a violation of the Securities and Exchange Law.

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050227a5.htm>> (27 February)

2. Debt (insolvency law, banking and finance law)

“Gov't panel OKs bank agent business by outsiders”

A government advisory panel compiled a report Wednesday [2 February] calling for a system in which companies outside the banking sector can serve as agents for banks, panel members said. The report, drawn up by a subcommittee of the Financial System Council, proposed the creation of "bank agent broking business," in which companies such as supermarkets, travel agents and automobile dealers will be able to take in deposits for banks, the members said:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=business&an=>> visited on 3 February)

“UFJ Bank execs admit to blocking inspections”

Three former UFJ Bank executives pleaded guilty in the opening session of their trial Thursday to thwarting government inspections in 2003 in violation of the Banking Law: <<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050218a3.htm>> (18 February)

“FSA mulling life insurance deregulation”

The Financial Services Agency might partially deregulate the life insurance sector in fiscal 2005, including expanding the range of insurance products with discounted premiums, according to agency sources. It is also considering easing restrictions on comparative advertisements for life insurance products to boost competition in the sector, they said:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20050203a4.htm>> (3 February)

3. Goods and Services (contracting, competition law, IP, PL, consumer law)

“Mitsubishi Fuso lists 111 more defect cases”

Scandal-tainted Mitsubishi Fuso Truck & Bus Corp. on Wednesday revealed an additional 111 vehicle defect cases that were dealt with without submitting recall reports to the government. The latest discovery stems from Mitsubishi Fuso's expanded investigation into its past quality issues dating back to the 1970s:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050203a2.htm>> (3 February)

See also, “Mitsubishi Fuso takes most time to report vehicle defects”

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050221a2.htm>> (21 February)

“Intel Japan to get FTC warning”

The antimonopoly watchdog will warn Intel Japan K.K. about the way it sells microprocessors to clients, which it suspects is a violation of the Antimonopoly Law... The Fair Trade Commission suspects that the Japanese unit of U.S. semiconductor giant Intel Corp. tried to shut out rivals' products from the microprocessor market by providing clients with incentives such as discounts, they said. Intel Japan told the commission it did not violate the law:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050206a9.htm>> (6 February)

4. Labour (employment law, pension system)

“Ruling parties, opposition clash on pension reform”

Leaders of the ruling and opposition camps butted heads again Wednesday on pension reform as the opposition camp refused to comply with the ruling parties' demand to hold joint talks on a comprehensive social security net for the country:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050224a7.htm>> (24 February)

5. Oversight and Policy (administrative law, public official law, tax policy)

[Tax Policy]

“Tax change only closes a loophole, Japan says”

A senior Finance Ministry official sought to reassure private equity firms over a controversial tax proposal on Monday, saying the change was aimed at closing a loophole and not at squeezing foreign investors. The proposed widening of the 20 percent withholding tax on capital gains has upset many private equity firms, which say it would hurt private equity investment in Japan, which was worth some \$8 billion in 2004 alone:

<<http://www.iht.com/articles/2005/01/31/business/gflede.html>> (1 February)

[Environmental Law]

“Japan now off track to living up to Kyoto pact”

Although Japan has pledged to cut its greenhouse gas emissions 6 percent by 2012 from 1990 levels, such emissions are now expected to be 6 percent higher by 2010, according to a government report:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050219a2.htm>> (19 February)

See also, “Working to reach Kyodo goals overseas”

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050216f1.htm>> (16 February)

“Bill aims at keeping emissions in check”

Companies will be required to document toxic gas emissions. With the Kyoto Protocol up and running, the government is taking action to put more pressure on businesses to stick to their end of the deal in reducing greenhouse gas emissions. Under a bill to be submitted to the current Diet session, about 13,000 medium- and large-sized companies would be labeled “specific emitters” and required to submit annual emission reports. Furthermore, that information would be made public. The proposed revision to the law called Promotion of Measures to Cope with Global Warming will take effect as early as April 2006:

<<http://www.asahi.com/english/politics/TKY200502280146.html>> (28 February)

6. Social Context (NPO law, civil justice reforms, education)

“State to resubmit bill criticized for restricting media”

The government and the ruling coalition plan to resubmit to the current Diet session a bill to protect human rights after revising it in response to criticism that it restricts the media:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050203b3.htm>> (3 February)

7. International Context (constitutional reform, international relations)

[Constitutional Reform]

“Panel favors amending Article 9”

The House of Representatives Research Commission on the Constitution likely will state in its final report that the majority of the body is in favor of amending the war-renouncing Article 9 of the Constitution:

<<http://www.yomiuri.co.jp/newse/20050203wo01.htm>> (3 February; full text in PDF is available on request)

See also, “Amendment must be made easier to ensure prosperity for Japan”

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20050207a1.htm>> (7 February)

[Immigration Law]

“Comments on new immigration rules sought”

The Justice Ministry has made an outline of its new basic immigration control plan and will solicit comments from the public before finalizing it around spring... The outline includes a proposal on expanding the hiring of foreign workers in Japan in more fields to deal with the projected decline in population:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050202f3.htm>> (2 February)

“Japan gave 15 refugee status in '04”

Japan recognized 15 people as refugees in 2004, up by five from 2003, the Justice Ministry said Thursday [24 February]. In addition, nine people whose applications for asylum had been turned down were issued special residence permits, ministry officials said:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20050225a7.htm>> (25 February)

[International Relations]

“LDP drafts bill to aid N. Korean defectors”

The ruling Liberal Democratic Party has drafted an outline for a bill to protect the rights of North Korean defectors, a move officials say could be used as another stick to deal with Pyongyang. The proposal, compiled Thursday [3 February], is specifically aimed at assisting people fleeing North Korea and would provide support to nongovernmental organizations working to improve the state of human rights in North Korea:

<<http://www.asahi.com/english/politics/TKY200502050173.html>> (5 February)

“Japan asks China for treaty to send prisoners home”

A sharp increase in the number of Chinese nationals jailed in Japan has prompted the government to ask China to conclude a bilateral treaty that would allow Chinese prisoners to serve jail terms in their home countries... Allowing Chinese nationals convicted in Japan to serve their prison terms at home would help reintegrate them into society and also help ease heavy congestion at Japanese prisons:

<<http://mdn.mainichi.co.jp/news/20050205p2a00m0fp009000c.html>> (5 February)

“Pouring oil on the East China Sea”

Japan has begun planning for the worst. A conflict with China over rich gas deposits in the East China Sea has escalated since late January when two Chinese destroyers entered the area, which has been in dispute for decades. Japan warned China that it would defend its resources there:

<<http://www.iht.com/articles/2005/02/23/opinion/edvalencia.html>> (23 February)