

LUKE NOTTAGE, *Product Safety and Liability Law in Japan.  
From Minamata to Mad Cows*

RoutledgeCurzon (London et al. 2004), 308 + XI pp.; £ 65; ISBN 0-415-29685-4

Recent headlines from Japan have startled Western consumers addicted to Japanese products for their technical features and reliability. Large-scale food-poisoning with some 14,000 victims, exploding television sets and literally hundreds of thousands of recalls of defective cars awoke memories of the 1960s, when mass-tort litigation in Japan was an answer to faulty domestic products. So, is Japan at the beginning of the new millennium still a “producer’s paradise”, as in the 1950s and 1960s when economic growth was the paramount goal? *Luke Nottage* thinks otherwise. In his thoughtful and comprehensive analysis of the law and practice of product safety and liability in present-day Japan, he views the recent events in a more positive light. In his opinion, the recent scandals should rather be interpreted as a sign that problems can no longer be kept hidden and that people are ready to complain and take steps against producers. The author thus, cautiously, sees a more appropriate balance between consumer and producer interests as the emerging framework for the 21<sup>st</sup> century.

*Nottage’s* work can easily be qualified as *the* treatise on product safety and liability in Japan in any Western language.<sup>1</sup> It benefits from its long genesis, and the fact that the author has been engaged with the topic for many years from a theoretical as well as a practical perspective. The impressive 30-page bibliography (in small print) gives a hint of the amount of research work that he has invested. The result is comparative law at its best. The reader learns much about black-letter law, primarily in form of the 1994 Product Liability Law and emerging case law, compared to developments under the regime established by the pertinent EC Directives, a similar model in Australia, and more divergences in the U.S. Equally, the reader finds more contextual information related to product liability practice, including the resolution of disputes in court and beyond, for example in ADR centres.

More generally, and perhaps most interestingly, the book supplies fundamental insights about changes in Japanese law and society in a broader sense. Thus the treatise should appeal as much to the comparative lawyer interested in product safety and liability regulation in Japan, as to the Japanese law specialist interested in the role of law in this specific area. In short, for anyone with a serious interest in Japanese law *Nottage’s* vividly written analysis is a “must-have”.

---

1 For a specific comparison between the Japanese and German regulation of product liability cf. the conference volume *Produkthaftung in Deutschland und Japan*, ed. by J. GROTHEER / M.K. SCHEER (Hamburg 1998).

The book is organized in five chapters and supplemented by a lush set of five appendices. The opening Chapter (pp. 1–22) begins by reporting on some of the major scandals that made it into the headlines in recent years. It uses them to reflect on the bewildering spectacle of views articulated by Western as well as Japanese scholars about the role of law in Japanese society in general, and the relationship between consumers and producers more specifically. Chapter 2 (pp. 22–69) offers a historical perspective on product liability regulation in Japan and the genesis of the 1994 Law. Chapter 3 (pp. 70–153) focuses extensively on comparative issues by comparing the Japanese Product Liability Law with the three foreign product liability regimes mentioned above. The author holds that the Japanese regulation is arguably more pro-claimant in many aspects than the original EC Directive, but still often less so than the Australian or U.S. regime.

Chapter 4 (pp. 154–201), correctly labeled “The PL Law in Action”, turns to a more sociological approach, especially compared to the previous chapter with its emphasis on black-letter law. The author analyzes the activities of courts and the various Product Liability ADR Centres set up in Japan by industry associations. A variety of empirical evidence suggests that such activities caused Japanese manufacturers to significantly improve their product safety from the mid-1990s (recent scandals notwithstanding). The concluding Chapter 5 (pp. 202–212) summarizes the findings and outlines some of the future challenges for the Product Liability Law and product safety regulation more generally, now that Mad Cow Disease has reached Japan too.

Appendix A supplies the author’s translation of the short Product Liability Law, which consists of six Articles only. Appendix B contains an annotated translation of an informative high-profile judgment delivered in the so-called “*McDonald’s Orange Juice*” case by the Nagoya District Court in 1999. Appendices C and D give an overview of product liability law cases filed between 1995–2001 and all product liability suits filed between 1990–2001, respectively, showing settlements and the amounts of damages awarded. Appendix E lists the Product Liability ADR Centres in Japan, complete with address, opening hours, the name of the organization running the individual centre, the competent supervisory authority and the number of cases handled by each centre (as of 3/97). Thus no wishes are left unfulfilled with respect to factual information.

In translated words, the author’s decision to do without the usual macrons (or other marks) to indicate long vowel sounds in Japanese, however, might not find universal approval.

*Harald Baum*