

Satoshi Kubota Associate
kubotas@gtlaw.com

John Stapleton Associate
stapletonj@gtlaw.com

Greenberg Traurig Tokyo Law Offices

Ryuanji Temple's lottery meets the Fourth Industrial Revolution

Japan's Ministry of Internal Affairs and Communications announced a new policy on 26 January 2018 that will allow the sale of almost all types of lottery tickets via the internet from October 2018¹. Satoshi Kubota and John Stapleton of Greenberg Traurig Tokyo Law Offices discuss in this article the new policy change which is a major step forwards for a business that has been an indispensable source of revenue for local governments in Japan, and which will transport a practice that dates back almost four centuries into the digital age.

Origins of lottery in Japan

Lottery in Japan dates back to 1624 to a place formerly called Settsu Province, which comprised of what is now southeastern Hyogo Prefecture and northern Osaka Prefecture. Visitors to a temple in the province of Ryuanji from New Year's Day to 7 January would place into a box a kifuda, a wooden tablet, with their name written on it. On the 7 January, a monk would choose three kifuda from the box and give each of the winners an omamori, a Japanese amulet, for happiness and good fortune.

Similar practices continued during the Edo Period (1603-1867) as a way for temples and shrines to obtain funding to repair the facilities and for other similar purposes, until 1842 when the ruling Shogunate Government prohibited the practice.

Later, during World War II, the Special Funds Adjustment Act (Act No. 86 of 10 September 1937) was amended in April 1945 to provide for the legalisation of a version of a lottery to raise funds for the war. The lottery tickets were sold under the names 'happiness tickets' and 'victory cards'; however, the war did not wait for the implementation of the lottery. Japan announced its surrender on 15 August 1945, but the first lottery ticket was not sold until 10 days later on 25 August 1945. The irony was not lost on the Japanese, who often referred to the lottery tickets as 'defeat cards².'

Modern lottery in Japan

Legalisation

'Lottery,' pronounced takarakuji in Japanese, a word which uses a combination of the Japanese symbols for 'treasure' and 'drawing,' is generally prohibited under Article 187 of the Penal Code of Japan (Act No. 45 of 24 April 1907). However, the Lottery Ticket Act (Act No. 144 of 12 July 1948) provides an exception for a limited form of regulated lotteries run by local governments. The main purpose of the legalised lotteries is to raise funds for the participating prefectures and designated cities³.

These local governments, with the permission of the Minister for Internal Affairs and Communications, commission banks and similar businesses to physically sell the lottery tickets on behalf of the local governments. The banks, pursuant to the sales plan set out by the local governments, select the design and print the lottery tickets, distribute them to ticket offices, oversee advertising, control sales, conduct the draws, announce the winning ticket numbers, and pay the winnings, among other activities. After the draw, the profits from the tickets sold are collected by the relevant offices of the local governments.

Lotteries in Japan can be broken down into four different types. The first is Jumbo Draw, which is the largest lottery in terms of possible winnings and is conducted nationally only five times

per year. In the Jumbo Draw, a player can purchase a lottery ticket with the numbers and group number already printed on the ticket. A draw is conducted where the numbers and group number are selected at random, and if the player's ticket matches all the numbers and group number drawn, the player receives winnings often ranging from JPY 100 million to JPY 700 million. The second type of lottery is the standard lottery, which is similar to Jumbo Draw, but is conducted both nationally and locally on a more regular basis than Jumbo Draw, and offers lower potential winnings. The third type of lottery is a number-select lottery, where the player selects their desired numbers. In this type of lottery, similar to the standard lottery, players win when their selected numbers are drawn. The fourth type is a scratch lottery, where players scratch off the covering in a designated area of the ticket to reveal whether the numbers or pictures match. The ticket itself informs the player of the amount won, if any.

The proceeds

Around 45% of the proceeds from lottery sales are generally paid out to lottery players, while around 40% of the proceeds go to the local governments, and the remaining 15% covers the service fees and other expenses⁴. The proceeds from lotteries have been an unflinching source of funding for the operations of regional municipalities. Additionally, there is an aspect of lotteries which



image: Le Kiet / Unsplash.com

allows people to dream about winning the jackpot, whilst tapping into their sense of public spirit through providing financial support to local society and life.

Demographics

According to a 2016 survey published on the Takarakuji website⁵, people who have played the lottery at least once make up about 76.4% of the population, which, based on population estimates, equates to about 81,150,000 people. More men than women have played the lottery, with 81.4% of men and 71.6% of women having experienced the thrill at least once. Additionally, 79.6% of the Japanese public in their 30s, 81.1% of those in their 40s, 82.1% of those in their 50s, and 82.7% of those in their 60s have played⁶. As evidenced by these figures, a large portion of the Japanese population has played the lottery, while the population of lottery players also appears to be aging.

Internet sales of lottery tickets

Background

Jumbo Draw, standard lottery, number-select, and scratch lottery tickets are sold at ticket offices located in street markets as well as train stations, shopping centres, and banks, among others, but only number-select tickets have been made available online to date.

Meanwhile, revenue from the sale of lottery tickets hit its peak in 2005 with around JPY 1.1 trillion in revenue, and has continued to shrink ever since.

Consequently, the loss in revenue has become a major source of worry for local governments which have relied heavily on lottery funds to shore up tax revenue.

In 2011, in reaction to this trend, the Ministry of Internal Affairs and Communications formed an expert group called the 'Lottery Revitalization Review Group.' According to the Group, the recent slump in lottery sales is due to external factors, including a stagnant economy and more generally a lower personal income in Japanese society. The Group has also stated that efforts to cultivate interest in new and younger players have been too slow, and that although traditional sales at ticket offices has been the primary sales channel, there has been a reduction in the number of ticket sales offices.

Based on these findings, the Group argues that there is a need to expand the sales channels for lottery tickets. Accordingly, the Group says that the availability of lottery tickets should be expanded to the internet as well as via additional physical sales offices, in order to meet the needs of a larger base of players⁷.

The new policy on internet sales

In response to the circumstances discussed above, the Ministry of Internal Affairs and Communications announced a new policy on 26 January 2018 to expand internet sales from

only number-select tickets to Jumbo Draw and standard lottery as well, from October of this year⁸. Scratch lottery tickets, however, will continue to be excluded from online sales⁹. Sales of these lottery tickets will be available on the Takarakuji website, which will be accessible via PC as well as via smartphones. To get started, users will simply need to set up an account on the site. For those players without an internet bank account, tickets will also be available for sale using credit cards. According to Minister Seiko Noda of the Ministry of Internal Affairs and Communications, 500,000 users are expected to register within the first six months, with a goal of eventually reaching 3,800,000 users¹⁰.

Conclusion

It is safe to say that the monks of Ryuanji in 1624 could not have foreseen what Japanese lottery would become in 2018. However, the new policy that will allow for more comprehensive internet sales of lottery tickets is necessary in the age of the Fourth Industrial Revolution where digital information and different payment methods are central to everyday life.

It also shows the ability of the Japanese Government to be pragmatic in cooperating with local governments to solve issues ultimately stemming from new trends in this digital era, and perhaps even a model for greater availability of gaming online moving forward.

1. The new policy is published online via the Ministry of Internal Affairs and Communications' website at: http://www.soumu.go.jp/menu_news/kaiken/01koho01_02000662.html (Japanese language only).
 2. See History of Japanese Lottery on the Takarakuji official website at <http://www.takarakuji-official.jp/about/history> (Japanese language only).
 3. Article 1 of the Lottery Ticket Act.
 4. See an overview of proceeds distribution on the Takarakuji official website online at: <http://www.takarakuji-official.jp/about/proceeds/index.html/> (Japanese language only).

5. <http://www.takarakuji-official.jp/about/research/001.html> (Japanese language only).
 6. Ibid., at <http://www.takarakuji-official.jp/about/research/002.html> (Japanese language only).
 7. See the Lottery Revitalization Review Group's report for background and findings, online at: http://www.soumu.go.jp/main_sosiki/kenkyu/takarakuji_kaseika/houkokusyo.html (Japanese language only).
 8. No change in law itself is necessary for this new policy. The Ministry is designated as the regulator of lotteries pursuant to the Lottery Ticket Act, and so has the authority to promulgate changes in regulations such as these without the need for legislation.

9. As a result, according to an article published in the Nikkei newspaper by its Economy Department, the percentage of lottery sales available online will increase from 43.8% to 93.8%; See 'Purchase Lottery via Smartphone in October on the Official Site - Ministry of Internal Affairs and Communications,' 26 January 2018, online at: <https://www.nikkei.com/article/DGXMZO26171260W8A120C1CR0000/> (Japanese language only).
 10. A summary of the announcement is available on the Ministry of Internal Affairs and Communications website at: http://www.soumu.go.jp/menu_news/kaiken/01koho01_02000662.html (Japanese language only).