City of Helsinki

Environment Centre

Food Safety Department

Issuing an order to FitnessOnline, in accordance with section 55 of the Food Act

HEL 2016-001895 T 11 02 00

Decision

Operator

FitnessOnline, Simonkatu 9, 00100 Helsinki, business ID 2443594-9

Order by the Director of Food Safety

1. The operator must submit notifications to the Finnish Food Safety Authority Evira for the food supplements it imports.
2. The mandatory packaging labels for food stuffs must be provided in Finnish and Swedish.
3. Food supplements must include additional labels, in accordance with the Food Supplements Act (78/2010).

Deadline

The previously mentioned actions must be carried out by 31 July 2016.

Implementation

The Director of Food Safety decided that the order in accordance with section 55 of the Food Act must be followed regardless of any potential appeals, unless the authority that processes the appeal (the Environment Committee) decides otherwise.

Background information relating to the matter

FitnessOnline is a retail shop selling sports products, as an element of which it imports and sells food supplements. In addition to food supplements, the operator imports and sells other foodstuffs, such as sports products.

An inspection of FitnessOnline's store was carried out in accordance with the monitoring plan on 15 September 2015. During the inspection it was observed that the majority of the foodstuffs imported by the operator were lacking Finnish and Swedish language packaging labels. As well as lacking the mandatory packaging labels, the food supplements imported by the operator were also lacking additional labels,

required in accordance with the Food Supplements Act (78/2010). The operator had not submitted a notification to the Finnish Food Safety Authority Evira for the food supplements it imports. The corrective measures were to have been carried out by 31 December 2015 (Appendix 1 Inspection report).

Another inspection of the FitnessOnline shop was carried out on 15 January 2016, where it was discovered that the deficiencies had not been rectified by the deadline (Appendix 2 Inspection report).

Hearing

The operator has been heard regarding the order in accordance with section 55 of the Food Act and the deadline to be set, by means of a letter dated 29 February 2016. (Appendix 3: Hearing letter, and Appendix 4: Translation)

The operator had not issued a rejoinder by the set deadline.

Justifications for the decision

Despite the information, guidance and exhortations provided, FitnessOnline has not rectified the deficiencies observed during inspections. Since FitnessOnline has taken no measures to correct the observed deficiencies in foodstuffs, it has become necessary to impose an order in accordance with section 55 of the Food Act, in order to rectify the deficiencies.

According to section 55 of the Food Act (23/2006), if a foodstuff or information given about it; the foodstuff production, processing or distribution stage; foodstuff premises; or the operations practised in them may cause a health hazard, put the accuracy or sufficiency of the information given on the foodstuff at risk, mislead the consumer, or otherwise violate the foodstuff regulations, the control authority may order the deficiency to be rectified. A violation of the regulations shall be ordered to be rectified immediately or within a fixed period specified by the control authority.

According to section 2 of the Ministry of Agriculture and Forestry Decree on Food Supplements (78/2010), food supplement refers to pre-packaged products to be sold in pressed pieces, capsules, pastilles, tablets, pills, powder, concentrated form, as extract, as a liquid or in any other equivalent dose form, which is marketed as a foodstuff, which is consumed in small, measured doses, and which is not of dietary importance in terms of amount of energy provided. The purpose of a food supplement is to, on the basis of its specific nutrients or other substances, supplement the diet, or otherwise influence a person’s nutritional or physiological activity. Food supplement does not refer to products which, under the Medicines Act (395/1987) are classed as medicines.

In accordance with section 7 of the Ministry of Agriculture and Forestry Decree (78/2010), traders who produce, have produced on their behalf, or import food supplements must submit a notification of this to the Finnish Food Safety Authority Evira. A notification is also required if the product's composition, in terms of its specific substances, changes, or if the product is removed from the market. FitnessOnline has not submitted a notification to the Finnish Food Safety Authority Evira for the food supplements it imports.

In accordance with section 5 the Ministry of Agriculture and Forestry Decree (78/2010), the packaging of the food supplement must include: the names of the classes of substances or specific nutrients, or the nature of these nutrients or substances; the recommended daily intake of the product; a warning that the stated recommended daily intake should not be exceeded; a statement that food supplements should not be used as a substitute for a balanced diet; a warning stating that the products should be stored out of the

reach of small children. Products which are covered by this decree have the trade description ‘food supplement’. The products checked during the inspection of the FitnessOnline shop were lacking the packaging labels required under the food supplements decree.

In accordance with section 4 of The Ministry of Agriculture and Forestry decree on the provision of food information to consumers (834/2014) mandatory packaging labels for pre-packaged foodstuffs must be provided in Finnish and Swedish at least, for foodstuffs to be sold or otherwise distributed in bilingual municipalities. The foodstuffs imported and sold by FitnessOnline were lacking Finnish and Swedish language packaging labels.

Documents on which the decision is based

1. Inspection report on 15 September 2015
2. Inspection report on 15 January 2016
3. The hearing of FitnessOnline on 29 February 2016
4. Translation of the hearing
5. Translation of the decision

Applicable legal rules

Sections 1, 8 and 55 of the Food Act (23/2006)
Sections 34 and 36 of the Administrative Procedure Act

Section 3 of the Medicines Act (395/1987)
Section 4 of the Ministry of Agriculture and Forestry decree on the provision of food information to consumers (834/2014)
Sections 2, 5 and 7 of the Ministry of Agriculture and Forestry decree on Food Supplements (78/2010)

Any potential further measures regarding the matter

If the deficiencies have not been rectified by the deadline, a decision proposal will be submitted to the Environment Committee whereby the order issued by the Director of Food Safety will be enforced with a penalty payment. In this case, the penalty payment would amount to EUR 5,000.

Appealing

Instructions for appealing are attached to this document.

Method of notification

The extract from the minutes has been delivered to FitnessOnline as a service of notice.

Additional information

Mirja Rautio

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Appendices

1. Inspection report on 15 September 2015
2. Inspection report on 15 January 2016
3. The hearing of FitnessOnline on 29 February 2016
4. Translation of the hearing
5. Translation of the decision

Appealing

Instructions for appeal, Environment Committee

Extracts

Extract	**Appendices to the extract**
FitnessOnline	Instructions for appeal, Environment Committee
Food Safety Department	