Market Surveillance on Online stores

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Finnish Safety and Chemical Agency (in brief)

- Core duties: surveillance and enforcement, communications and R&D
- Founded in 1995/2011
- FINAS Accreditation service 1.1.2015 ->
- Safety of Consumer services 1.5.2016 ->
- Offices in Helsinki, Tampere and Rovaniemi
- 270 employees (person-years)
  - Appr. 60 employees carry out market surveillance
  - Budget: expenditure €27,6 million (gross), income €3,6 million
Product surveillance by Tukes

- Tukes is responsible for product surveillance under a range of statutes and for several ministries (Ministry of Employment and the Economy, Ministry of Social Affairs and Health, Ministry of the Environment, Ministry of the Interior, Ministry of Transport and Communications).

- Active national and international cooperation (Finnish Customs, OSH authorities, Finnish Transport Safety Agency Trafi, Nordic authorities, European cooperation within the EU –ADCO groups, Prosafe etc.).
Sectors of market surveillance by Tukes

- Electrical products (safety, EMC, ATEX, ROHS, accumulators and batteries)
- Lifts
- Explosives, fireworks
- Pressure equipment
- Industrial and consumer chemicals, biocides, plant protection products, cosmetics
- Measuring instruments
- Articles of precious metals
- Rescue service equipment
- Consumer products (e.g. toys, child care supplies, machinery, protective equipment)
- Construction products
- Energy and eco-efficiency of products
- Packages
Background of the online shopping

– The rapid development of information technology and the internet has changed the way of shopping.
– We have passed from the traditional mode to online shopping, and from being customers merely of the local stores, to being customers of the worldwide web based economy.
– This shift has several benefits for consumers, but it has also created pitfalls people might not always be aware of.
– Careless online shopping can end in disappointment or even in danger.
Main challenges of safety of products sold online

- You can buy anything at any time from anywhere – very easily
- There are all kind of online shops and economic operators
  - The knowledge of legislation varies
  - The interest in duties and responsibilities varies
- There are all kind of customers
  - Customers may be careless, trustful and starry-eyed
  - Customers don’t understand their own responsibility
- There are restricted possibilities to do market surveillance of products sold online
- The legislation is based on the idea that the products are sold in local shops
- The channels of distribution and selling methods are developing very fast (eg. fullfillment houses, groupon, closed facebook groups)

- It may come as a surprise to buyers that Finnish consumer protection does not reach everywhere and that Finnish supervision authorities cannot intervene effectively in any other matters than those concerning products purchased from a Finnish online shop or marketing and contract terms of online shops operating in Finnish.

Products from China straight to the doorstep

The Finnish post carries 15 million on line shop packages from China
Goals of the market surveillance of products sold online

Tukes prepared an **internal guide** for market surveillance of products sold online (January 2014)

- Goals in the guidelines:
  - Surveillance of online sales becomes a **natural part of market surveillance**
  - To discover best practices
  - To develop **cooperation** with other surveillance **authorities** (e.g. European or worldwide cooperation)
  - To develop **cooperation** with the **operators**, e.g. planning and organizing training on the subject
  - To follow the work done in the **Commission** and to actively take part to the cooperation done with other MS`s authorities
  - Include the online shops in every project of market surveillance
  - Participate in the Sweeps organised by the commission, OECD etc
  - To inform consumers and increase their knowledge of the safety risks involved in online sales - campaigning

Commission published on 1 August 2017: COMMISSION NOTICE on the market surveillance of products sold online (2017/C 250/01)
Procedures in market surveillance

• EO’s within Tukes jurisdiction and competence (located in Finland)
  – Business as usual
  – Basically the proceedings are the same as normally
  – Selling online is one distribution channel among others
  – The operators must comply with Finnish legislation if they target their marketing to Finnish consumers (technical requirements, warnings and instructions) – means the website is in Finnish
  – Important to pay attention on the information given of the product on the website (information that affects the decision to purchase)
  – The Business Information System (YTJ)

• EO’s located outside of Finland
  – Informing the EO / ”request for clarification”
  – Cooperation / informing the MSA
  – No administrative decisions / orders but
    • Informing consumers on risks http://marek.tukes.fi/
    • Rapid Alert System –notifications / SGC / ICSMS

In practice
• It must be clear who is the responsible party when considering surveillance procedures (hearings, decisions) E.g. website administrator, importer or other distributors etc.
• Is the operator located in Finland?
An example

- 10 USB chargers were bought from Finnish online shops
- The shops were chosen randomly including small and large shops
- All charges were tested in the testing house
- Half of the products have so bad safety problems that their selling was forbidden
- Only one tested charger was ok
- Normal market surveillance procedures were used and it was easy to contact the websites
- The online shops didn’t know that market surveillance is targeted also on them
- A press release was published
- All the information is found on the public market surveillance register (marek.tukes.fi)
Challenges

• Defining the right EO
• Uncertain outcome when administrative orders are not applicable
• Dangerous goods like fire works
• Authorised products (like pesticides and plant protection products)
• Informing consumers
Cooperation in Finland and advice to EOs and consumers

• The Finnish Competition and Consumer Authority, www.kkv.fi
  → Consumer protection, consumer rights, contracts, compensation for defective goods

• Assistance on cross border disputes: KKV / European Consumer Centre Finland

• Guidance from Customs www.tulli.fi
Raise the customers` awareness – information campaign

– We have carried out the awareness raising campaign with other authorities several times.
– The purpose of the campaign was to give consumers practical tips concerning online shopping and advice on how to recognise a responsible shop and reliable product online.
– The environment of the worldwide online shopping resembles the Wild West – great opportunities, many charlatans, no centralized regulation.
– That is the message we wanted to get across to the Finnish consumers including providing tips on how to shop safely.

– Campaign slogan: “There is no Sheriff in this Town”
– The campaign has been repeated several times

With cooperation

• The Finnish Competition and Consumer Authority (FCCA)
• The Finnish Transport Safety Agency (Trafi)
• The Finnish Medicines Agency (FIMEA)
• The Radiation and Nuclear Safety Authority Finland (STUK)
• Finnish Customs (Tulli)
• The Finnish Safety and Chemicals Agency (Tukes)
• The Finnish Food Safety Authority (Evira) (2015)
• and the Finnish Commerce Federation as a sponsor.
Challenges in future - rapid developments require cooperation

NEW LEGISLATION
market surveillance regulation
different interpretations of legislation

DIGITALIZATION

NEW TECHNOLOGY
3D printing, orders produced on-demand

NEW PRODUCTS, SUBSTANCES
products across different legislative sectors
circular economy, sharing economy
drones, robotic nursery equipment, customized products, the internet of things...
nanotechnology

NEW TRADING METHODS
e-commerce, subcontracting, fullfillment houses, closed facebook forums

NEW COMMUNICATION CHANNELS
Facebook, Twitter etc.

NEW USERS
professional products becoming consumer products, products intended for adult use becoming products for children, age of users of devices and equipment continuously advancing

BEHAVIOUR OF PEOPLE
Peoples' expectations regarding safety have changed
More risk-taking
General trust in technology working as expected (general trust that a third party has checked the safety)
Changes in skills and know-how
Safe, reliable and ecologically sustainable society

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www.twitter.com/tukesinfo