United States
CONSUMER PRODUCT SAFETY COMMISSION
Washington, D.C. 20207

CPSC/OFFICE OF THE SECRETARY

1999 MAR 12 P 3:12

MEMORANDUM

DATE: MAR 11 1999

TO : Commission
Sadye E. Dunn, Secretary

FROM : Jeffrey S. Bromme, General Counsel
Leonard H. Goldstein, Attorney, OGC

SUBJECT : All-Terrain Vehicles - Recommendation that the Commission Approve a Resolution Commending Bombardier Inc. for its ATV Safety-Related Actions

BALLOT VOTE due: MAR 19 1999

I. BACKGROUND

Bombardier Inc., a Canadian corporation, will soon start selling All-Terrain Vehicles ("ATVs") in the United States. The company has agreed, in a letter to OGC on March 8, 1999 (Tab A), to undertake voluntary safety-related actions that are comparable to those being taken by ATV manufacturers/distributors that the Commission commended in its Resolution of December 1, 1998. This memorandum summarizes Bombardier's undertakings and recommends that the Commission approve the attached draft Resolution (Tab B) commending the company for its actions. If the Commission approves the draft Resolution, we also recommend that the Commission authorize publication of a Federal Register notice (Tab C) announcing such approval. We are not recommending that the Commission seek public comment on whether it should approve the draft Resolution, as was done prior to the Commission's approval of its earlier Resolution.[1/]

[1/] When the Commission sought public comment prior to issuance of its Resolution of December 1, 1998, the question before the Commission was the same as it is now -- whether the Commission should approve a Resolution commending a company or companies for agreeing to undertake comparable ATV safety-related actions. The comments that were received then are applicable to the question of whether the Commission should issue the draft Resolution regarding Bombardier. Those comments are summarized in OGC's memorandum to the Commission on November 10, 1998 and were considered by the Commission prior to its approval of its Resolution of December 1, 1998.

NOTE: This document has not been reviewed or accepted by the Commission.
Initial rh Date 3/11/99

CPSA 6 (b)(1) Cleared
3/12/99
No Mfrs/PrvtLblrs or Products Identified
Excepted
Firms Notified,
Comments Processed.

II. SUMMARY OF BOMBARDIER'S ACTIONS

Bombardier's safety-related actions include the following:

- Bombardier will adhere to age recommendations specified in the ATV Consent Decrees (the Consent Decrees expired on April 28, 1998) for the promotion and sale of ATVs. The company will recommend and sell its introductory model ATV (an adult-size ATV with an engine size greater than 90 cc) only for the use of riders age 16 and older. If, in the future, the company manufactures a youth-size ATV with an engine size between 70 cc and 90 cc, it will recommend and sell that ATV only for the use of riders age 12 and older.

- The company will hire an independent firm to conduct undercover inspections of at least 50 randomly selected Bombardier ATV dealers annually to monitor compliance with the company's age recommendation requirements. (The number of dealers to be monitored during 1999 may be somewhat less than 50 due to the relatively few dealers that will sell Bombardier ATVs during the first year of sales.) Bombardier will take action against any dealer that violates the age requirements, including, where appropriate, action to terminate the dealer's dealership agreement.

- Bombardier will develop and support an information and education campaign ("I&E campaign") designed to promote the safe and responsible use of Bombardier ATVs. The I&E campaign will be carried out during calendar years 2001 through 2003. Bombardier's expenditures for each year of its I&E campaign will be based on the company's market share for ATV sales for the preceding year (2000 through 2002) and will be no less than $100,000 for each percent of its market share. This amount is comparable to the planned I&E expenditures of the other members of the industry for each percent of their market share. Bombardier will not begin the sale of significant numbers of ATVs in the United States until 2000 and will not have a significant market share on which to base its I&E expenditures until that year. The company projects that it will sell about 466 ATVs in the United States in 1999, 5,900 in 2000, 12,250 in 2001, and 26,450 in 2002. Bombardier reserves the option to participate in the I&E campaign being developed by Podesta Associates, Inc. for certain other industry members and will notify the Commission prior to January 2000 if it decides to exercise that option.

- Bombardier will use warning labels on its ATVs that are the same as those used by members of the industry that were subject to the ATV Consent Decrees.

- The company will adhere to guidelines in the ATV Consent Decrees for the communication of safety information in owner's manuals and promotional materials.

- The company will disseminate a safety alert and safety video to each of its customers and will display a safety hang tag on each ATV. The safety alert, video and hang tag will contain the same substantive safety messages as specified in the ATV Consent Decrees.

- Bombardier has joined the Specialty Institute of American ("SVIA") and will offer that organization's free hands-on training course to all purchasers of Bombardier ATVs.

- Bombardier will offer the choice of $100 cash or a 6-month extended warranty to all first-time purchasers without prior operating experience who take training. The incentive will also be available to the purchaser if a member of the purchaser's immediate family without prior operating experience takes training. (During the first year of distribution of Bombardier ATVs, the company will offer only the cash incentive as a training incentive.)

- The company does not intend to sell three-wheel ATVs.

- The company will notify the CPSC at least 60 days in advance of terminating or materially changing any of its agreed-upon undertakings.

III. Recommendation that the Commission Commend Bombardier

OGC recommends that the Commission approve the attached draft Resolution (Tab B) commending Bombardier for its safety-related actions regarding its ATVs. The draft Resolution is similar to the Commission's Resolution of December 1, 1998 commending other ATV manufacturers/distributors for taking comparable actions, but has been adapted to the facts regarding Bombardier. As noted above, we do not believe it is necessary for the Commission to seek public comment on this commendation. However, if the Commission approves the draft Resolution, we recommend that the Commission authorize publication of a Federal Register notice (Tab C) announcing such approval. (A notice announcing approval of the Commission's Resolution commending other manufacturers/distributors of ATVs was published in the Federal Register on December 9, 1998.)

Please indicate your vote on page 4 of this memorandum.

I. Approve the Resolution.

_____ _____
Signature Date

II. Do not approve the Resolution.

_____ _____
Signature Date

III. Publish the Federal Register Notice.

_____ _____
Signature Date

IV. Do not publish the Federal Register Notice.

_____ _____
Signature Date

V. Take other action (please specify):

_____

_____

_____

_____

_____

_____

_____ _____
Signature Date

Attachments

BOMBARDIER
RECREATIONAL PRODUCTS
Bombardier Inc.
800 René-Lévesque Blvd. West
Montréal, Québec, Canada H3B 1Y8
Telephone 1(514) 866-4747
Fax 1(514) 866-8900
http://www.recreation.bombardier.com

March 8th, 1999

Jeffrey S. Bromme, Esq.
Office of the General Counsel
U.S. Consumer Product Safety Commission
4330 East-West Highway
Suite 700
Bethesda, MD
20814-4408

Re: Voluntary All Terrain Vehicle (ATV) safety program

Dear Mr. Bromme:

Bombardier Inc. Recreational Products as the manufacturer of a new Bombardier "Traxter™" model ATV ("Products") and acting through its wholly owned subsidiary and distributor, Bombardier Motor Corporation of America ("Bombardier"), will shortly begin the manufacturing, assembling, distributing, selling and servicing the Products in North America.

As you know, Bombardier was not one of the five major manufacturers and/or distributors of ATV's named in Civil Action 87-3525, which was settled with the court's approval of the Final Consent Decree of April 28, 1988[1]. Consequently, Bombardier was not involved in any manner whatsoever in the negotiations leading to the entry of the Final Consent Decree.

Like other members of the general public, we are aware of the various provisions of the now-expired Final Consent Decree including, among others things, requirements for the:

- stop sale of all new three-wheeled ATV's;
- promotion and sale of adult-size ATV's only for the use of riders age 16 and over;
- adherence to guidelines for advertising and promotional materials; and

[1] References in this letter, to sections of the FINAL CONSENT DECREE, refer to sections of the FINAL CONSENT DECREE entered into by American Honda Motor Co. et al.

- inclusion of specific warnings on ATV labeling and in ATV owner's manuals.

It has been reported that the measures taken by your agency under the Final Consent Decree have a direct impact on reducing deaths and injuries associated with the ATV's.

Bombardier is committed to product quality and reliability and the safe and responsible use of its Products. We will continue to work hard to establish and maintain our reputation with your agency and shall, among other things, adhere to your overall objective of reducing, to the extent possible, ATV accidents. Our entry into a voluntary safety program with your agency confirms to you our commitment to contribute our efforts given to this objective.

Bombardier has authorized the undersigned to outline the voluntary safety program herein, which is the result of discussions with your office and our participation in the Specialty Vehicle Institute of America (the "SVIA"). The Bombardier program will be implemented using best reasonable commercial efforts as we enter into a new market for the Products, and provided such market remains economically viable.

Bombardier believes that manufacturers and/or distributors of motorized products do not have a legal duty to audit independent authorized Bombardier ATV dealers or to provide free and/or incentivized training to ATV purchasers and/or to the members of their immediate families, without prior operating experience. Nonetheless, Bombardier is committed to implementing the undertaking negotiated with the CPSC staff, as outlined below.

Age Recommendations

Bombardier understands and shares the CPSC's goal of reducing, to the extent possible, ATV-related deaths and injuries to young persons. Therefore, Bombardier will recommend, market, and sell its ATV's (all of which currently are adult-sized ATV's, with engine sizes greater than 90 cc),

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only to or for the use by persons sixteen years of age or older. If, in the future, Bombardier manufactures ATV's with an engine size between 70 cc and 90 cc, Bombardier will recommend, market and sell such ATV's only to or for use by persons twelve years of age or older. Bombardier will use its best efforts, including through the monitoring of dealers as outlined below, to reasonably assure that Bombardier authorized dealers do not recommend or sell Bombardier ATV's to or for the use of individuals under the minimum ages.

Dealer Monitoring

Bombardier will perform on-site undercover monitoring of its ATV dealers to monitor compliance with its age recommendation requirements. The number of dealers to be monitored during 1999 will be subject to the approval of the CPSC's staff and will be based, in part, on Bombardier's expectation that, initially, its ATV's will be distributed to relatively few Bombardier dealers. During the second and subsequent years covered by its monitoring program, Bombardier will conduct undercover monitoring of at least the same number of randomly selected dealers that other manufacturers/distributors of ATV's agreed to conduct in monitoring agreements that were approved by the CPSC on September 28th, 1995. (CPSC staff has given Bombardier a confidential copy of the substantive provisions of that monitoring agreement.)

Authorized Bombardier dealers will be selected for monitoring using a statistically valid sampling technique. Bombardier will inform the CPSC staff in advance of the components of the sampling technique to be used. Bombardier will also advise the CPSC staff of the name of the independent firm that will conduct the monitoring. In addition, Bombardier will provide the CPSC with a copy of the instructions to personnel conducting the monitoring and the reporting form to be used in reporting monitoring results.

Sanctions against Dealers

Bombardier will take appropriate measures against dealers who do not comply with age recommendation requirements. Such measures may have severe consequences, including, but not limited to, termination of the dealer relationship with Bombardier, as prescribed in the ATV Dealer Agreement.

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If Bombardier does not terminate its relationship with a dealer as a result of an initial violation, Bombardier will take follow-up actions against the dealer that are consistent with the procedures outlined in the monitoring agreement of other ATV distributors/manufacturers that was approved by the CPSC on September 28th, 1995.

Bombardier has supplied the CPSC with a copy of the standard ATV dealer agreement for Bombardier Products and the CPSC staff's comments have been incorporated into the final version of such agreement.

Information / Education Effort

Bombardier will develop and support an information and education campaign ("I&E Campaign") designed to promote safe and responsible use of Bombardier ATV's, including the need to observe the age recommendations for such ATV's and the importance of training. Bombardier will provide to CPSC staff, for review and comment, a copy of all material to be used in such I&E Campaign and information on when and where such materials will be published or otherwise disseminated to the public, and Bombardier's projected expenditures for its I&E Campaign.

Bombardier's I&E Campaign will be carried out during each of calendar years 2001 through 2003. The company's expenditures on its I&E Campaign will be in proportion (based on market share) to the planned I&E Campaign expenditures of the other ATV manufacturers and/or distributors. (The other ATV manufacturers and/or distributors currently have a collective market share of 100% and have agreed to spend approximately $10 million dollars on I&E campaigns over the course of the next three years.) Bombardier's expenditures on its I&E Campaign will be no less than one hundred thousand US dollars (USD 100, 000) for each percent of its aggregate percent of market share for the years 2000 through 2002.

Bombardier's I&E Campaign expenditures for each year of its I&E Campaign will be based, in part, on the company's market share for the previous year. The methodology to be used in determining its annual market share will be subject to the approval of the CPSC staff. At the end of each

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full year of its I&E campaign, Bombardier will report to the CPSC staff the amount of expenditures spent on the I&E campaign for that year.

Bombardier reserves the right to participate in the joint I&E campaign being developed by certain other manufacturers and/or distributors of ATV's as part of their post Consent-Decree programs. In the event Bombardier decides to participate in that I&E campaign in lieu of implementing a separate I&E campaign, as described above, Bombardier will advise CPSC staff of its decision at least thirty (30) days prior to its participation in the joint I&E program and in any event Bombardier will advise the CPSC staff of its intention to participate in the joint I&E program prior to January 2000.

ATV Labels

Bombardier will permanently affix to each of its ATV's the general warning label that is currently being used by other members of the ATV industry and, at the CPSC's request, Bombardier has finalized negotiations with members of the industry to use this label under license. In addition, Bombardier will permanently affix to each of its ATV's the other warning labels that were required under the Final Consent Decree and are generally in use. Bombardier will provide a copy of each warning label to the CPSC for information. In the future, if such labels are modified, Bombardier will assure that such modified labels provide the same substantive safety information in as effective a manner as the labels they replace. Bombardier shall provide a copy of any such modified labels to the CPSC at least thirty (30) days prior to first use.

Operator's Guides

Bombardier will supply, with each ATV, an operator's guide and safety handbook that includes the substantive informational content of paragraph H.2.b. (2) (including relevant cross-references) of the Final Consent Decree. Bombardier has provided a copy of its initial operator's guide and safety handbook to the CPSC staff for information. In the future, if such operator's guide or safety handbook are modified, Bombardier will assure that such operator's guide or safety handbook will include the substantive informational content of paragraph H.2.b.(2) (including relevant cross-

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references) of the Final Consent Decree. Bombardier shall provide a copy of any such modified operator's guide & safety handbook to the CPSC staff at least thirty (30) days prior to first use.

In essence, the operator's guide and safety handbook to be used by Bombardier shall be comparable to all others used with Bombardier recreational products sold in the United States of America. In addition, these documents will include the appropriate warnings and instructions applicable to ATV's.

Advertising

Bombardier advertising practices require depictions and representations of our products that are consistent with safe and responsible uses and, to this end Bombardier's ATV advertising and promotional materials will conform to the General Provisions set forth in Section II. A.1-4 of Appendix K of the Final Consent Decree. In addition, Bombardier will include in its ATV advertisements and promotional materials, the substance of the safety messages in Section III of Appendix K of the Final Consent Decree.

Moreover, Bombardier will use its best reasonable commercial efforts to promote dealer compliance with Bombardier advertising practices, including conditioning cooperative advertising funding on such compliance. As you may be aware, Bombardier follows the same standards of conduct for its other recreational products.

Hang Tags

Bombardier will use vehicle hangtags that convey the same substantive safety messages as hangtags under the Final Consent Decree.

As discussed with your office, Bombardier's hangtags will also incorporate a section to allow the dealer to indicate the selling price of the ATV. Authorized Bombardier ATV dealers will be advised to affix multiple copies of the hangtags to each ATV and the consumers will be allowed to remove one of the hang tags, if desired.

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Bombardier will use its best reasonable commercial efforts to assure that pricing information added to the hangtag by authorized Bombardier ATV dealers does not detract from the safety information that will appear in the hang tag, and that dealers will display a supply of hangtags on each Bombardier ATV at all times. We believe such practice will allow retail customers to take vehicle hangtags with them and allow members of their immediate families to take cognizance of their content.

Bombardier will provide the CPSC staff with a copy of its hangtag for information. Such hangtag will be provided to the CPSC staff at least thirty (30) days prior to first use.

Safety Alerts

Bombardier will provide to its authorized ATV dealers, for dissemination by them to prospective purchasers, information that conveys the same substantive safety messages as the "ATV Safety Alert" in Appendix J of the Final Consent Decree.

Information concerning the estimated number of fatalities and injuries associated with ATV's will be accompanied by an explanation that such numbers are estimated and do not imply any causative factors involved in such incidents. Such Safety Alert will be provided to the CPSC staff at least thirty (30) days prior to first use.

ATV Safety Video

As it does for most recreational products Bombardier manufactures and/or distributes, Bombardier intends to include a copy of a safety video with every Bombardier ATV sold in the United States. The safety video will communicate essential safety and training-related information to consumers, including the messages in the ATV Safety Alert.

Bombardier firmly believes that watching a safety video with family members and friends will be beneficial in terms of understanding the characteristics and the handling features of an ATV. Bombardier will

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provide CPSC staff with a copy of a pre-production script for its ATV safety video for information.

Training

Bombardier will offer free hands-on training to all purchasers of Bombardier ATV's, and members of their immediate families, through the existing program of the ATV Safety Institute (the "ASI"), or through a suitably equivalent program that the CPSC staff has approved in advance.

This training program will be in addition to the training and information Bombardier will provide in a variety of forms to all purchasers, including our operator's guides, hang tags, ATV safety video and other media.

Bombardier will implement a dealer-loan program whereby its authorized ATV dealers may obtain Bombardier ATV's for loan to Bombardier ATV purchasers who need to borrow such vehicles to take ASI training. Bombardier will submit the details of its dealer-loan program to the CPSC staff for its approval at least 30 days prior to Bombardier's first distribution of ATV's to Bombardier dealers.

Incentives

Consistent with CPSC's stated interest in promoting the training of first-time ATV purchasers without prior operating experience, Bombardier will offer an incentive program to promote the training of first-time purchasers without prior operating experience.

The incentive will consist of the purchaser's choice of either (i) extending the coverage period of the applicable ATV limited warranty, for an additional six (6) months or (ii) a one hundred US dollars (USD100) cheque. Subject to the following, the incentive will be awarded after the purchaser or an age-appropriate member of the purchaser's immediate family has completed the Bombardier-recommended-and-approved hands-on training course, which shall be the course offered by the ASI or an equivalent suitable to CPSC staff. Only one incentive per vehicle sold will be made available, regardless of the number of family members who take the training. For the first year following

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launch of the Bombardier ATV, only the cash incentive shall be available to those who qualify.

We understand, from our discussions with your office, that studies demonstrate that such training improves rider awareness and may help reduce the number of injuries in the first hours of use of an ATV by inexperienced operators.

Voluntary Standards

Bombardier will participate in the efforts of the SVIA Technical Committee to update and revise the ATV voluntary standards. Potential technical issues identified by CPSC staff will be discussed and considered in good faith as part of those efforts.

ATV Hotline

Bombardier intends to use its existing hotlines for watercraft and snowmobiles to respond to questions from consumers regarding ATV safety or may help fund the toll-free ATV hotline administered by the SVIA. Alternatively, Bombardier may elect to establish an independent toll-free number to fulfil the same functions as outlined above.

The Bombardier ATV hotline telephone number will be included in Bombardier promotional brochures and print advertisements.

Three-Wheel ATV's

Bombardier does not intend to market or sell three-wheel ATV's in the United States of America.

Updated materials

Bombardier will provide copies of any updated and modified safety materials, such as operator's guides and on-product warning labels, which contain a material change in format, language or presentation, to the CPSC staff.

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Notice

Unless otherwise indicated, Bombardier intends to maintain the above-specified actions indefinitely.

Bombardier will provide information about these activities upon receipt of reasonable requests from the CPSC. Bombardier will notify the agency at least sixty (60) days in advance of terminating or materially changing any of these activities.

Conclusion

Bombardier has distributed recreational products in the USA for a significant number of years. During this time period, Bombardier consistently promoted the safe and responsible use of its products.

Accordingly, Bombardier hopes that the measures outlined in this voluntary safety program or undertaking regarding its ATV's will be well received by the CPSC and we look forward to working with and maintaining our good working relationship with the CPSC's staff in an effective and productive fashion.

Please let us know if you have any questions.

Alain Brunelle
Vice President and General Manager
On behalf of Bombardier Motor Corporation of America,
ATV- Recreational Products

6657vf.-march4th. 1999

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RESOLUTION OF
THE UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION
COMMENDING BOMBARDIER INC.

The United States Consumer Product Safety Commission (the "Commission"), by vote on _____, RESOLVES THAT:

WHEREAS, Bombardier Inc. has announced its intention to sell ATVs in the United States; and

WHEREAS, Bombardier has agreed to undertake voluntary actions ("Bombardier's ATV Action Plan") that are comparable to those being undertaken by the current manufacturers and/or distributors of ATVs that the Commission has commended (See 63 FR 67861), including actions to (i) promote training, including through the offer of a cash incentive to first-time ATV purchasers, (ii) implement a multi-year information and education safety campaign emphasizing, among other things, the risks created when children younger than 16 operate or ride on adult-sized ATVs, (iii) not market, sell or offer to sell adult-size ATVs to or for use by children younger than 16, (iv) not market or sell three-wheel ATVs, (v) provide safety information on and with ATVs, including giving an ATV Safety Alert to each purchaser, (vi) retain the services of an independent organization to conduct the undercover monitoring of an agreed-upon minimum number of randomly selected dealers to monitor compliance with minimum age requirements, (vii) undertake various other safety measures, and (viii) notify the Commission at least 60 days in advance of any material changes to Bombardier's ATV Action Plan; and

WHEREAS, a copy of Bombardier's ATV Action Plan is available to the public upon request to the Commission's Office of the Secretary; and

WHEREAS, notwithstanding implementation of Bombardier's ATV Action Plan, the Commission reserves all its statutory enforcement, regulatory and oversight powers with respect to ATVs.

NOW, THEREFORE:

1. The Commission commends Bombardier for its ATV Action Plan, which the Commission believes will provide safety benefits to consumers.

2. The Commission will actively monitor the voluntary actions of Bombardier as well as those of the current manufacturers and/or distributors of ATVs by, among other things, increasing the undercover inspections it conducts of ATV dealerships to ensure compliance with age recommendations; increasing its inspections to ensure proper use of labels and hangtags; and collecting and assessing information regarding the effectiveness of training incentives. Other activities are set forth in the Federal Register notice of September 9, 1998 (63 FR 48199), which notified the public of the voluntary actions of the current manufacturers/distributors of ATVs. The Commission will take appropriate action based on the results of its monitoring activity. The Commission also will continue to track the death and injury rate associated with ATVs and reserves its authority to take action based on this data.

Billing Code 6355-01P

CONSUMER PRODUCT SAFETY COMMISSION

All-Terrain Vehicles; Commission Resolution
AGENCY: Consumer Product Safety Commission
ACTION: Notice.
SUMMARY: The Consumer Product Safety Commission ("Commission") hereby announces its issuance of a Resolution commending Bombardier Inc. ("Bombardier") for the company's action plan regarding all-terrain vehicle ("ATV") safety.

Historical information regarding ATV safety-related actions by the Commission and other members of the ATV industry is included in the Commission's **Federal Register** notice of September 9, 1998 (63 FR 48199). That notice also requested public comment on whether the Commission should issue a Resolution commending certain members of the industry for their ATV action plans. After consideration of public comments, the Commission issued its Resolution commending such other industry members (63 FR 67861).

Bombardier's action plan is similar to action plans being carried out by other ATV manufacturers/distributors that the Commission commended. Therefore, the Commission views the public comments received in response to its **Federal Register** notice of September 9, 1998 as applicable to the question of whether the Commission should also commend Bombardier, and has considered those comments in deciding to issue this commendation. Accordingly, the Commission has determined that it is not necessary to solicit comment on whether it should issue its Resolution regarding Bombardier.

FOR FURTHER INFORMATION CONTACT: For information about the Resolution, call or write Leonard H. Goldstein, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; (301) 504-0980, Ext. 2202.

Dated:

Sadye E. Dunn,
Secretary
Consumer Product Safety Commission

RESOLUTION OF
THE UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION
COMMENDING BOMBARDIER INC.

The United States Consumer Product Safety Commission (the "Commission"), by vote on _____, RESOLVES THAT:

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WHEREAS, Bombardier has agreed to undertake voluntary actions ("Bombardier's ATV Action Plan") that are comparable to those being undertaken by the current manufacturers and/or distributors of ATVs that the Commission has commended (See 63 FR 67861), including actions to (i) promote training, including through the offer of a cash incentive to first-time ATV purchasers, (ii) implement a multi-year information and education safety campaign emphasizing, among other things, the risks created when children younger than 16 operate or ride on adult-sized ATVs, (iii) not market, sell or offer to sell adult-size ATVs to or for use by children younger than 16, (iv) not market or sell three-wheel ATVs, (v) provide safety information on and with ATVs, including giving an ATV Safety Alert to each purchaser, (vi) retain the services of an independent organization to conduct the undercover monitoring of an agreed-upon minimum number of randomly selected dealers to monitor compliance with minimum age requirements, (vii) undertake various other safety measures, and (viii) notify the Commission at least 60 days in advance of any material changes to Bombardier's ATV Action Plan; and

WHEREAS, a copy of Bombardier's ATV Action Plan is available to the public upon request to the Commission's Office of the Secretary; and

WHEREAS, notwithstanding implementation of Bombardier's ATV Action Plan, the Commission reserves all its statutory enforcement, regulatory and oversight powers with respect to ATVs.

NOW, THEREFORE:

1. The Commission commends Bombardier for its ATV Action Plan, which the Commission believes will provide safety benefits to consumers.

2. The Commission will actively monitor the voluntary actions of Bombardier as well as those of the current manufacturers and/or distributors of ATVs by, among other things, increasing the undercover inspections it conducts of ATV dealerships to ensure compliance with age recommendations; increasing its inspections to ensure proper use of labels and hangtags; and collecting and assessing information regarding the effectiveness of training incentives. Other activities are set forth in the Federal Register notice of September 9, 1998 (63 FR 48199), which notified the public of the voluntary actions of the current manufacturers/distributors of ATVs. The Commission will take appropriate action based on the results of its monitoring activity. The Commission also will continue to track the death and injury rate associated with ATVs and reserves its authority to take action based on this data.