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U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

6(b) CLEARED: product
✓ No Mfrs Identified
Excepted
Mfrs Notified
Comments Processed

3 FEB 1975

Mr. Leo Edelstein
General Merchandise Department
Mitsui & Co. (U.S.A.), Inc.
200 Park Avenue
New York, New York 10017

Dear Mr. Edelstein:

This is in response to your letter dated September 10, 1974, in which you requested an advisory opinion on six questions concerning the Commission's bicycle safety regulations (16 CFR 1500.18 (a)(12) and 16 CFR Part 1512).

In your letter you asked if a tear-out guarantee card could be included in the owner's manual. As long as removal of the card does not cause the removal or obliteration of any of the information required to be included in the instruction manual by 16 CFR 1512.19, no provision of the regulation would prohibit the inclusion of a tear-out guarantee card in the instruction manual.

You also asked if your firm could print one owner's manual that would include all of the information required by the bicycle regulations "covering each brand bicycle produced by one manufacturer." Provisions of 16 CFR 1512.19(a) require that each bicycle shall be accompanied by an instruction manual which contains specified operating, assembly, and maintenance instructions. One instruction manual applicable to several different bicycle models could comply with the requirements of section 1512.19(a) if it contained all of the information required by that section for each bicycle model. If one instruction manual is intended to accompany several different bicycle models, care should be taken in the arrangement of the manual so that the purchaser of any given model can easily distinguish those portions of the manual which are applicable to his model from those which are not.

You also asked if the owner's manual may indicate the manufacturer's name rather than each distributor's name. No provision of 16 CFR 1512.19 requires that the distributor of a bicycle must be identified. Section 1512.19(a) does require that the instruction manual must give directions for performing specified maintenance operations; or if the manufacturer determines that those operations are beyond the capabilities of a consumer, the instruction manual may instead give the locations

of establishments where the specified maintenance operations can be performed. The locations of those establishments may be given in any manner in the instruction manual which will be readily understood by the consumer.

Your fourth question asked how distributors could prevent bicycle dealers from returning for credit those unsold bicycles which are not subject to the regulation and do not comply with all of the provisions of the regulations and are in dealers' inventories on the date the regulations become effective. As you may know, on December 16, 1974, the Commission published a notice in the Federal Register suspending the effective date of the bicycle regulations until further notice; and on January 7, 1975, published another notice proposing a new effective date and soliciting comments on the appropriateness of that proposed effective date.

Whatever action the Commission takes to establish a new effective date for the regulations, they will not be applicable to bicycles which are in the inventories of dealers on the date the regulations become effective. No provision of the Federal Hazardous Substances Act or the bicycle regulations will prohibit retailers from selling noncomplying bicycles which are in their inventories on the date the regulations become effective, and retailers will have no right to demand repurchase of those bicycles under any statute or regulation enforced by the Commission. Distributors and retailers are free to make any provisions they can agree upon concerning disposition of unsold noncomplying bicycles which are in retailer's inventories on the date the regulations become effective.

You also asked if the provisions of 16 CFR 1512.19(b) and (c), which require certain information to appear on the carton and promotional display materials of an unassembled or partially assembled bicycle, are applicable to a bicycle which is packaged in a carton that is labeled to indicate that the bicycle is to be sold to the ultimate retail purchaser only in a fully assembled condition. Although the language of sections 1512.19(b) and (c) does not expressly state that those sections are applicable only to bicycles which are offered for sale to consumers in an unassembled or partially assembled condition, the purpose of the requirements of those sections is to inform consumers about the tools necessary to assemble the bicycle and to indicate the size of the rider which the bicycle is designed to accommodate. If a bicycle is offered for sale to consumers only in a fully assembled and adjusted condition, the provisions of sections 1512.19(b) and (c) are not applicable. However, if a bicycle is sold to a consumer in an unassembled or partially assembled condition in a carton which is not

labeled in accordance with sections 1512.19(b) and (c), the manufacturer of that bicycle would be in violation of 16 CFR 1500.18(a)(12), and the bicycle would be a "banned hazardous substance" as that term is used in the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)(A)).

In your final question you asked if the carton of a bicycle which is intended for sale to a consumer in an unassembled or partially assembled condition could be labeled with the statement "Instructions for assembly will be found in the owner's manual inside shipping carton." This statement may appear on the carton of such a bicycle; however, the carton and all promotional materials must also contain the information required by 16 CFR 1512.19(b) and (c).

Sincerely,

Original signed by
Michael A. Brown
Michael A. Brown,
General Counsel

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RECEIVED
SEP 17 1974
TECHNICAL ANALYSIS DIVISION

September 10, 1974

Mr. David Schmeltzer
Asst. General Counsel
Consumer Products Safety Commission
Room 700
1750 K St., N.W.
Washington, D.C. 20207

Dear Mr. Schmeltzer:

In keeping with your request, we submit the following for your official opinion.

1. May we include a tear-out life-time guarantee card in the owner's manual?

2. May we print one owner's manual that will include all the information required by the C.P.S.C. safety standards covering each brand bicycle produced by one manufacturer?

3. May the above mentioned owner's manual indicate the manufacturer's name rather than each distributor's name?

4. How can our customers (distributors) protect themselves from having bicycles (presently in dealers shops) being returned unsold for credit when bicycles with C.P.S.C. specifications reach their shops?

5. If the carton is marked:
"Notice: This bicycle must not be sold in the carton. This bicycle is to be sold in assembled and serviced condition only.", it will not be necessary to:

1. indicate tools needed
2. fit bicycle to rider
3. indicate how to assemble

6. For those who prefer to do their own assembling, the shipping carton may state: "Instruction for assembling will be found in owner's manual inside shipping carton".

Yours truly,
MITSUI & CO. (U.S.A.), INC.

Leo Edelstein
General Merchandise Dept.

LE/np
CC: Mr. William Menza (OSCA)
Mr. Ken Edinger (BESP)