WILLKIE FARR & GALLAGHER

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Washington, DC
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April 24, 1998

BY HAND DELIVERY

Jeffrey S. Bromme, Esq.
General Counsel
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

Re: *United States v. American Honda, et al.*,
Civil Action No. 87-3525

Dear Mr. Bromme:

Yamaha Motor Corporation, U.S.A. ("Yamaha") has worked closely with the CPSC and others to promote safe and responsible use of all-terrain vehicles ("ATVs"') in the United States. These efforts have helped to achieve substantial reductions in the number of injuries and fatalities associated with ATV use.

Yamaha remains fully committed to the goal of further reducing ATV-related accidents. Yamaha has authorized us to provide written notice to CPSC of the actions that Yamaha will undertake after expiration of the ATV consent decree on April 28, 1998. These actions are voluntary and have been discussed extensively with CPSC staff over the past several months. Yamaha appreciates the productive nature of those discussions. The actions outlined below address the identified concerns of CPSC and will continue Yamaha's effective efforts to promote safe and responsible use of its ATVs.

Age Recommendations

Yamaha will not recommend, market, or sell adult-sized ATVs (*i.e.*, with engine sizes greater than 90 cc's) to or for the use by persons under sixteen. Yamaha will recommend, market, and sell youth model ATVs (*i.e.*, 70 to 90 cc's) only for use by children aged twelve or older with adult supervision.

Dealer Monitoring

Yamaha will continue to use its best efforts to obtain dealer compliance with the age recommendations. Among other things, Yamaha will maintain its current dealer monitoring program, including on-site inspections conducted by independent

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investigators. Approximately the same number of dealers will be selected annually for inspection using Yamaha's current cluster sampling methodology. Yamaha will also continue to take appropriate disciplinary measures against non-complying dealers, including possible termination, to the extent permitted by applicable state and local laws.

Information/Education Effort

Yamaha is participating in the development of a new informational/educational effort to communicate age recommendation, passenger, and other safety-related information to consumers. Among other things, this effort will complement Yamaha's ongoing efforts to deter children under age sixteen from operating adult-sized ATVs or riding as passengers. Yamaha will continue to discuss with CPSC staff the nature and scope of this effort as it develops.

ATV Labels

Yamaha will continue to use the recently updated general, passenger, and age labels, as well as its current tire label.

Owner's Manuals

Yamaha will continue to use owner's manuals that include the substantive informational content requirements of paragraph H.2.b.(2) of the consent decree (citations herein to consent decree provisions include any relevant cross-references). Yamaha may update and modify the format, language, corresponding illustrations, and other associated components used to convey those substantive messages and warnings in the owner's manuals, consistent with generally accepted communication techniques and standards. Yamaha will provide copies of any updated and modified manuals to CPSC.

Advertising

Yamaha's company policy will continue to require future ATV advertising and promotional materials (1) to conform to the General Provisions of Appendix K (which appear at Section II.A. paragraphs 1-4); and (2) to depict ATVs in a manner consistent with safe and responsible use of the product. In addition, Yamaha will continue to include the substance of the safety messages currently required in Section III of Appendix K in their future ATV advertising and promotional materials. Yamaha will use its best efforts to promote dealer compliance with Yamaha's ATV advertising policies, including conditioning cooperative advertising funding on such compliance.

Hang Tags

Yamaha will continue to use vehicle hang tags that convey the same substantive safety messages as the current hang tags. Yamaha will use its best efforts to require dealers to display the hang tags on new ATVs.

Safety Alerts

Yamaha will continue to provide to its dealers, for dissemination to prospective purchasers, information that conveys the same substantive safety messages as the current "ATV Safety Alert." Information concerning the estimated number of fatalities and injuries associated with ATVs will be accompanied by an explanation that such numbers are estimated and do not imply any causative factors involved in such incidents.

ATV Safety Video

Yamaha will continue to use the current ATV safety video, but may replace it with an updated version that communicates essentially the same safety and training-related information. For example, the content of any new video may be affected by the ongoing information/education effort described above.

Training

Yamaha will continue to offer free hands-on training through the existing ASI program to all purchasers of ATVs and qualifying members of their immediate families. Children aged twelve to fifteen will only be trained on youth size models (*i.e.*, engine sizes between 70 and 90 ccs). The training program will include use of the existing training curriculum, approximately the same number of administrative and instructor personnel, and approximately the same number of training sites. The training program is in addition to the training information Yamaha already provides in a variety of forms to all purchasers, including through the owner's manuals, hang tags, ATV safety video, and other media.

Consistent with CPSC's stated interest in promoting the training of first-time ATV purchasers without prior operating experience, Yamaha will initiate an incentive program under which such persons (or a qualifying member of their immediate family) will receive a monetary incentive of $50.00 plus a $50.00 rebate on the purchase of a Yamaha ATV helmet upon completion of the training course. (Yamaha helmets are and will continue to be priced based on wholesale market factors, without regard to the incentive program.) The rebate coupon will be distributed at the point of sale to promote the contemporaneous purchase of a helmet with a new ATV.

Recent ATV exposure and injury survey data show that a significant number of ATV-related fatalities and serious injuries might have been prevented by the wearing of a helmet. This incentive program will replace Yamaha's current one (which Yamaha will maintain for the interim) and will complement Yamaha's other, ongoing efforts to encourage new ATV owners to begin safe riding practices from the start, by purchasing and using a helmet and by taking the hands-on training program offered by Yamaha. Upon completion of the course, Yamaha will send these purchasers a check for $100. New ATV purchasers who already own a helmet may request a $75 cash incentive in lieu of the rebate program.

Other measures will be used to promote the training program to all ATV purchasers, including a videotape packaged with each vehicle and training certificates and other promotional materials at the dealerships. Yamaha will also maintain reasonable programs to make "loaner" ATVs available for training purposes.

Voluntary Standards

Yamaha 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

Yamaha will continue to help fund the toll-free ATV hotline administered by the Specialty Vehicle Institute of America. The ATV hotline telephone number will be included in Yamaha's promotional brochures and print advertisements.

Three Wheel ATVs

As previously stated in my April 9, 1997 letter to you, Yamaha does not intend to market or sell three-wheel ATVs, even though no product or design defect in three-wheel ATVs has been found.

Notice

Unless otherwise indicated, Yamaha intends to maintain the above-specified actions indefinitely. Yamaha will provide information about these activities upon reasonable requests from CPSC. Yamaha will notify the agency at least sixty (60) days in advance of terminating or materially changing any of them.

Please let us know if you have any questions.

Very truly yours,

Emroy L. Watson

David P. Murray

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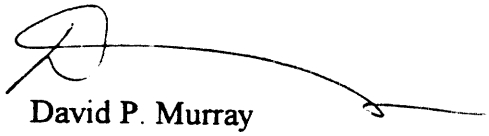

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