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David P. Murray

Washington, DC
New York
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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.

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

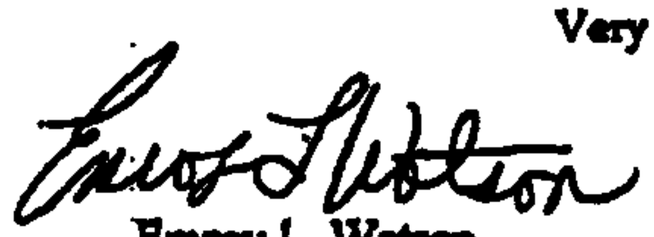
As previously stated in my April 9, 1997 letter to you, Yamaha does not intend to market or sell three-wheel ATVs, even though no product or design defect in three-wheel ATVs has been found.

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

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August 12, 1998

BY HAND

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

Dear Mr. Bromme:

This letter outlines the information and education program developed by Arctic Cat, Inc., Kawasaki Motors Corporation, U.S.A., Polaris Industries Inc., American Suzuki Motor Corporation, and Yamaha Motor Corporation, U.S.A. (collectively, the "Companies"). The Companies intend to implement the program as part of their continuing efforts to promote safe and responsible use of ATVs, and have authorized me to send this letter on their behalf.

The Companies retained outside experts to assist them in developing the program. Several focus group interview sessions were conducted involving ATV owners and operators, including children, in various regions of the country. The focus group research was used to help identify appropriate message treatments and media for distributing them. The results of these efforts have been shared in detail with Commission staff at key points in the program development process. Commission staff has also provided comments and suggestions that have been incorporated into the program where appropriate.

Elements of the program include the following:

Interactive CD-ROM The Companies intend to create a CD-ROM program that will convey ATV safety information in a competitive, visually exciting manner that resembles the types of interactive video simulations that pre- and young teens find entertaining. The CD-ROM will be designed to provide a new and exciting way to warn children against the use of adult-sized ATVs and to teach them about other risks associated with ATV use. The Companies hope to include a capability that will allow program participants to create personalized achievement certificates based on their scores. These certificates can be printed and will restate some of the key safety information

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learned during the program, providing further exposure of the safety messages to parents, siblings, and others to whom the certificates are shown.

The CD-ROM will be packaged with all new ATVs for at least three years, beginning with the first model year cycle after the program is developed. Recent exposure survey data suggest that nearly half of ATV-owning households own personal computers. The Companies also plan to mail copies of the CD-ROM to selected school and public libraries, in order to make the program generally available to non-computer owning households. An effort will be made to create a rendition of the program that can be accessed through the individual Companies' websites and either played on-line or downloaded to the personal computer.

Video The SVIA-member Companies are developing a new video that will feature the safety themes and messages developed through the focus group research. The video will also promote participation in the hands-on training program offered through ASI. Polaris intends to revise its video to incorporate the same safety themes and messages. Copies of the new video will be packaged with all new ATVs for at least three years, beginning no later than the first model year cycle after the video is developed.

Safety Reminders The Companies will launch a direct mail effort to new ATV purchasers directed at parents. A direct mail piece incorporating the safety messages will be sent to new owners within a few weeks of vehicle purchase. The SVIA-member Companies will also use the *Enrollment Express* capability to reach new purchasers by telephone with the safety reminders.

School and Library Distributions As noted, the Companies intend to distribute copies of the CD-ROM to selected school and public libraries. Together, these library distributions will target approximately 22,000 middle, junior, and senior high schools in non-urban areas and approximately 5,000 public libraries. Additional safety instructional materials will be distributed for classroom use through Lifetime Learning's Weekly Reader-affiliated resource. We have been advised that Lifetime Learning's format is highly regarded by teachers and facilitates integration of the safety messages into classroom instruction. School mailings will include a teacher's lesson plan kit, handouts, a poster, and take-home sheets that students can share with their parents and siblings. The Companies intend to sponsor two school distributions of the safety materials, one in 1999 and one in 2000. Distributions will be made to an estimated 22,000 middle, junior, and senior high schools in non-urban areas, reaching an estimated audience of 5 million students, parents, and teachers per distribution. At Commission staff's request, the Companies will explore expansion of this effort, in consultation with Lifetime Learning (*e.g.*, by increasing the number of teacher kits or by adding a third year of distribution).

Pediatric Office Distribution The Companies intend to distribute a poster and accompanying brochures to pediatricians' offices in selected regions of the country through the American Academy of Pediatrics ("AAP"). This distribution is subject to approval by the AAP, and would involve mailings to as many as 8,262 Board-certified pediatricians and 607 hospitals.

Website As noted, the Companies also intend to expand their individual company websites to the extent feasible to provide on-line access to a rendition of the CD-ROM program and other safety information. The Companies hope to provide a capability allowing persons to download the CD-ROM program from these websites.

Print Ad Campaign The Companies intend to integrate information about the availability of the new CD-ROM program in their general ATV advertising during the first year of the program's creation. The Companies also intend to turn the two most powerful print messages from the focus group research (*i.e.*, "looks like you, hunts like you" and "top of the car" messages, which stress personal and family responsibility) into print advertisements for selected enthusiast and women's magazines (*e.g.*, *ATV Magazine*, *Four Wheeler*, *Dirt Wheels*, *Redbook*, *Good Housekeeping*). These advertisements will be targeted for the spring of 2000, when the farming and summer vacation seasons begin and children are likely to be out and riding.

Program Budget Estimates The Companies anticipate that the direct costs of the program will range from approximately $6,000,000 to $7,000,000 over the next three years. A break-down of these estimates was provided at our last meeting. These estimates do not include numerous additional costs of the program, including the costs of company website expansion and maintenance, use of *Enrollment Express*, the value of the safety messages integrated into general ATV advertising, and other internal company expenses. The SVIA-member Companies estimate that they will invest an additional $3,300,000 in training incentives during the next three years, above the costs of the ASI hands-on training program. Additionally, the program budget estimates do not include Polaris' costs for its training program. All of these actions and costs demonstrate the Companies' ongoing commitment to promoting safe and responsible use of their ATV products.

The Companies appreciate the assistance and suggestions that Commission staff have provided over the past several months as the Companies developed the scope and content of the information and education program. We look forward to working with

Commission staff in implementing aspects of the program over the next several months. In the meantime, please let me know if you have any questions.

Very truly yours,

David P. Murray

cc: Annamarie Daley, Esq.
Jim Olds, Esq.
John Walsh, Esq.
Michael Wiegard, Esq.